CHAPTER 75

LAND SOLD FOR TAXES

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NOTE: 1987 Wisconsin Act 378, which repealed and recreated chapter 74, made substantial amendments to chapter 75. Act 378 contains explanatory notes.

75.001 Definitions. In this chapter, unless the context clearly indicates otherwise:

(1) "Tax" means real property taxes, special assessments as defined under s. 74.01 (3), special charges as defined under s. 74.01 (4) and special taxes as defined under s. 74.01 (5).

(2) "Tax deed" means a tax deed executed under s. 75.14, a deed executed under s. 75.19 or a judgment issued under s. 75.521.

History: 1987 a. 378.

75.002 Timely payment. (1) When payment is required under this chapter to be made on or before a certain date, the payment is timely if it is mailed in a properly addressed envelope, postmarked before midnight of the last date prescribed for making the payment, with postage prepaid, and is received by the proper official not more than 5 days after the prescribed date for making the payment.

(2) A payment which fails to satisfy the requirements of sub. (1) solely because of a delay or administrative error of the U.S. postal service shall be considered to be timely made.

History: 1987 a. 378.

75.01 Redemption. (1) (a) As used in this subsection, "recording" means the presentation of a tax deed to the register of deeds for record and acceptance of it.

(b) Any person, prior to the recording of a tax deed based on a tax certificate issued on land for nonpayment of taxes, may redeem the land described in the tax certificate. Redemption shall be made by paying to the county treasurer the amount of the unpaid taxes stated in the tax certificate plus the interest and penalty as provided under s. 74.47, computed from the date of accrual as specified in the tax certificate plus any other charges authorized by law to be imposed on the tax certificate following its issuance. If there is a redemption before the recording, the tax deed, as it relates to the land redeemed, shall be void.

(c) The provisions of this chapter relating to redemption, conveyance, rights of action, limitation and other proceedings shall apply to all swamp and overflowed lands that have been or may be contracted for sale by any county board.

(4) (a) Redemption of land subject to a tax certificate may be made in partial payments of not less than $20, unless the county treasurer agrees to accept a smaller amount. The making of partial payments shall not operate to extend the period of redemption.

(b) Each partial payment shall be applied first to pay all charges authorized by law, then to pay the interest and penalty accrued and then to pay the principal of the tax. The portion of the payment to be applied as principal shall be ascertained by dividing the amount of the payment by the sum of one plus a figure that is the product of either .01 or a decimal reflecting the applicable percentage under s. 74.47, multiplied by the number of months of delinquency, counting any part of a month as a full month. This amount of principal shall be deducted from the amount offered in payment and the remainder of it shall be the interest accrued from the date of accrual specified in the tax certificate on that portion of the tax that is offered to be paid. Interest on any new balance of principal sum shall be figured from the date of accrual specified in the tax certificate.

History: 1977 c. 26; 1981 c. 167; 1987 a. 378.

Redemption under sub. (1) (b) may occur up to the time of the filing of a valid tax deed. The filing of a void tax deed does not prevent redemption. There is no authority for the retroactive amendment of a void tax deed. Theige v. County of Vernon, 221 Wis. 2d 731, 586 N.W.2d 15 (Ct. App. 1998).

An owner is entitled to redeem part of a parcel of land sold for taxes before the tax deed is recorded by filing with the county treasurer an application for proration of taxes containing a legal description of the portion sought to be redeemed. 58 Atty. Gen. 39.

An interested person may redeem land sold for the nonpayment of taxes up until the time a tax deed conveying the same is recorded. Sections 74.46 and 75.14 (1) are discussed. 63 Atty. Gen. 592.

75.03 Redeeming lands of minors, incompetents. (1) (a) The lands of minors or any interest they may have acquired in lands prior to or after the date the lands became subject to a tax certificate may be redeemed at any time before such minors come of age and during one year thereafter if such lands did not accrue delinquent taxes for 5 or more consecutive years prior to or after such acquisition, but no such redemption shall be construed as redeeming the interest of any other person in such lands. The lands of persons adjudged mentally incompetent or any interest they may have acquired in lands prior to the date the lands became subject to a tax certificate and which did not accrue delinquent taxes for 5 or more consecutive years prior to or after such acquisition, may be redeemed at any time during disability and during one year thereafter. Redemption shall be made under s. 75.01.

(b) The heirs of any such minor who dies after the minor's title to the lands shall accrue and before the expiration of the time when, if the minor had lived, the minor might have redeemed the lands, may also, if minors, redeem the interest of the minor in the lands within the time in which the minor could, if living, have redeemed the same; and if not minors they may redeem within one year from the time their title so accrues and within the time in which the minor could, if living, have redeemed the same.

(2) The period of redemption of lands or any interest in the lands of minors or persons adjudged mentally incompetent, which they acquired prior or subsequent to the date the lands became subject to a tax certificate and which lands accrued delinquent taxes for 5 or more consecutive years, prior to or after such acquisition, shall not be extended under sub. (1).

(3) If a tax certificate includes lands or any interest in lands which are held by a minor or a person adjudged mentally incompetent, and those lands have accrued delinquent taxes for 5 or more years, and the time for issuance of a deed upon the certificate has not expired, the county may either foreclose by action under s. 75.19 or take title under s. 75.14 or 75.521 and foreclose any right of redemption or interest of any minor or person adjudged mentally incompetent by separate action under s. 75.19. In such action the minor or person adjudged mentally incompetent must appear by guardian ad litem as provided by law, and the guardian, if the person has one, shall be joined as a party defendant.

History: 1977 c. 83; 1987 a. 378.

75.04 Redemption receipt and entries. Upon the redemption of any lands subject to a tax certificate by payment to the county treasurer, the treasurer shall execute to the person so redeeming a receipt specifying the land redeemed and the amount of the redemption money paid on each parcel separately. The treasurer shall enter on the tax certificate the information required under s. 74.57 (4) (d).

History: 1987 a. 378.

75.05 Disposition of redemption money. The county treasurer shall distribute and retain funds paid to redeem land subject to a tax certificate as follows:

(1) Partial payments of delinquent real property taxes shall be retained by the county and applied as provided in s. 75.01 (4) (b).

(2) Payments of delinquent real property taxes, plus any interest and penalties, shall be retained by the county.

(3) Payments of delinquent special taxes, plus any interest and penalties, shall be retained by the county.

(4) Payments of delinquent special assessments or special charges for which the county settled under s. 74.29, plus any interest and penalties, shall be retained by the county.

(5) Payments of delinquent special assessments or special charges for which the county did not settle for under s. 74.29, plus any interest, shall be paid within 15 days after the last day of the month in which the payments were received by the county treasurer to the taxing jurisdiction which levied the special assessment or special charge. Penalties on special assessments and special charges for which the county did not settle for under s. 74.29 shall be retained by the county.

History: 1987 a. 378; 1991 a. 39.

75.06 Applicability of chapter to 1st class cities. For purposes of this chapter, "county" includes a city authorized to proceed under s. 74.87. Unless the context specifically indicates otherwise, all powers granted to counties by this chapter are granted to that city; all powers and duties granted to county governing bodies and officials are granted to the counterpart governing body and officials of that city; and all procedures and forms prescribed by this chapter as applicable to counties shall be applicable to that city, with the modifications necessary to retain substantial conformity with this chapter.

History: 1987 a. 378.

75.07 Redemption notices; publication. (1) Each county treasurer shall, at least 6 and not more than 10 months before the expiration of the time for redeeming lands subject to a tax certificate, except lands subject to s. 75.521 that are located in a city authorized to proceed under s. 74.87, cause to be published as a class 2 notice, under ch. 985, in the county in which the lands are located, a list of all unredeemed lands, specifying each tract or lot, the name of the person to whom assessed, if any, and the amount of taxes, charges and interest, calculated to the last day of redemption, due on each parcel, together with a notice that unless such lands are redeemed on or before the last day of redemption, which shall be specified, they will be conveyed to the county. The county treasurer, for the purpose of such list, may condense such descriptions when such condensed description will reasonably describe the premises.

(2) (a) Before publishing such list such treasurer shall carefully compare the same with the tax certificate describing the lands to be included in the list to be published. If upon such examination there be found any omission or erroneous description in the tax certificate, such parcel of land in the description of which the omission or error shall occur shall not be advertised for redemption, but shall be deleted from the tax certificate in which it was originally included and placed in the next−issued tax certificate.

(b) If the number of the description in the lists of lands to be advertised for redemption by the county treasurer shall exceed 3,000, the treasurer shall then let by contract the publication of such list to the lowest bidder upon a notice, written or printed, to be delivered to and left with the publisher or one of the publishers of each newspaper printed as aforesaid, at least 10 days prior to the time at which such contract shall be let.

(c) Any county treasurer who shall wilfully refuse or neglect to perform any duty required by this section or who shall keep back and not report any unredeemed lands for the purpose of evading its provisions shall forfeit the full amount of the penalty of the treasurer's official bond, one half of which, when collected, shall be paid to the person prosecuting therefor and the residue into the treasury of the state for the use of the school fund; provided further, that no county treasurer shall be liable to any penalty for causing such publication to be made in a weekly newspaper published in such county for the length of time hereinbefore named prior to the date of the treasurer's notice, when by reason of accident or other cause more than one week has intervened between the dates of the actual issue of such newspaper to subscribers, if such delay at any one time shall not have exceeded 3 days; but every such newspaper, for the purpose of this section shall be deemed to have been regularly published once in each week as hereinbefore provided.

History: 1987 a. 378.

Sub. (1) requiring publication of a redemption notice prior to the expiration of the time to redeem lands sold for taxes is directory only; failure to include in such publication the name of the person to whom the taxes were assessed does not invalidate a subsequent tax deed. 63 Atty. Gen. 116.

In publishing redemption notices for tax delinquent lands under (1), a county treasurer is not authorized to omit the names of persons to whom such property was last assessed. 63 Atty. Gen. 118.

75.09 Notice, how posted. If no newspaper be published in such county the county treasurer shall also, at least 3 months previous to the time limited for the redemption of any lands subject to a tax certificate, cause to be posted up copies of the list and notice specified in s. 75.07 in at least 4 public places in the county, one of which copies shall be posted up in some conspicuous place in the treasurer's office.

History: 1987 a. 378.

75.10 Mistake in notice. Whenever, by mistake or otherwise, such treasurer neglects or fails to include in the treasurer's published list any such tract or tracts of land or to publish such list in accordance with the requirements of law, the same may be published at any time within 2 years after the expiration of the period of redemption. Such publication shall be made in the same manner and for the same time as prescribed in the preceding sections, and such treasurer shall specify in the treasurer's notice accompanying such published list when the time for making redemption of such lands from such sale will expire, which time shall not be less than 6 nor more than 10 months from the expiration of the full 2 weeks required for the aforesaid publication. All tax deeds made upon such tracts of land after the expiration of the regular period of redemption shall, after the expiration of such extended period of redemption, be as valid and effectual as if such publication had been made at the time required in such section.

History: 1987 a. 378.

75.105 Cancellation of delinquent real property taxes on property contaminated by hazardous substances. (1) DEFINITIONS. In this section:

(a) "Department" means the department of natural resources.

(b) "Discharge" has the meaning given in s. 292.01 (3).

(c) "Hazardous substance" has the meaning given in s. 292.01 (5).

(2) CANCELLATION AUTHORIZED. At any time before the recording of a tax deed based on a tax certificate issued on property for nonpayment of taxes, the governing body of a county may cancel all or a portion of the unpaid real property taxes for which a tax certificate has been issued plus interest and penalties on those taxes on the property if all of the following apply:

(a) The property is contaminated by a hazardous substance.

(b) An environmental assessment has been conducted and concludes that the property is contaminated by the discharge of a hazardous substance.

(c) The owner of the property or another person agrees to clean up the property by restoring the environment to the extent practicable and minimizing the harmful effects from a discharge of a hazardous substance in accordance with rules that the department promulgates.

(d) The owner of the property or another person presents to the county or city an agreement entered into with the department to investigate and clean up the property.

(e) The owner of the property agrees to maintain and monitor the property as required under rules that the department promulgates and under any contract entered into under those rules.

(3) ADMINISTRATION. Upon the cancellation of all or a portion of real property taxes under sub. (2), the county treasurer shall execute and provide to the owner of the property a statement identifying the property for which taxes have been canceled and shall enter on the tax certificate the date upon which the taxes were canceled and the amount of taxes canceled.

(4) CERTAIN CITIES AUTHORIZED. A city authorized to proceed under s. 74.87 may act under this section with respect to unpaid real property taxes for which it has settled with other taxing jurisdictions.

History: 1997 a. 27; 1999 a. 32.

75.106 Assignment of property contaminated by hazardous substances. (1) DEFINITIONS. In this section:

(a) "Brownfield" has the meaning given in s. 560.13 (1) (a).

(b) "Department" means the department of natural resources.

(c) "Discharge" has the meaning given in s. 292.01 (3).

(d) "Hazardous substance" has the meaning given in s. 292.01 (5).

(2) ASSIGNMENT AUTHORIZED. Before a judgment is issued under s. 75.521, the governing body of a county may assign to a person the county's right to take judgment with respect to any parcel that is subject to the county's foreclosure action under s. 75.521, if all of the following apply:

(a) The governing body of the county provides written notice to the governing body of the city, town or village in which the parcel that is subject to the county's foreclosure action is located at least 15 days before the governing body of the county meets to consider the approval of the assignment.

(b) The governing body of the county produces a written assignment that is signed on behalf of the county, the assignee and the city, town or village in which the parcel that is subject to the county's foreclosure action is located.

(c) The assignment identifies the parcel for which a judgment is assigned.

(d) The parcel for which a judgment is assigned is a brownfield.

(e) The assignment requires an environmental assessment of the parcel and requires that the department be provided the results of that assessment before a final judgment under s. 75.521 related to the parcel is granted to the assignee.

(f) The assignment requires that, if the parcel is contaminated by the discharge of a hazardous substance, as determined by the assessment under par. (e), and if the assignee elects to accept the judgment assigned under this subsection regardless of the contamination, the assignee enter into an agreement with the department, before a final judgment is issued under s. 75.521 related to the parcel, to clean up the parcel to the extent practicable; to minimize any harmful effects from the hazardous substance pursuant to rules the department promulgates; and to maintain and monitor the parcel pursuant to rules the department promulgates.

(g) The assignment and an affidavit from the county treasurer that attests to the county governing body's approval of the assignment are filed with the court that is presiding over the county's foreclosure action under s. 75.521.

(3) JUDGMENT. If a county assigns a judgment under sub. (2) and the county is entitled to a final judgment in the county's foreclosure action under s. 75.521, the court that is presiding over the foreclosure action shall grant a judgment to the assignee under sub. (2) on the parcel that is the subject of the assignment and shall grant a separate judgment to the county for parcels that are not the subjects of an assignment. The court shall enter a judgment ordering and adjudging that the assignee is vested with an estate in fee simple absolute in the parcel that is the subject of the assignment and the court shall enter a judgment ordering and adjudging that the county is vested with an estate in fee simple absolute in all parcels that are not the subjects of an assignment. A judgment under this subsection is subject to all unpaid taxes and charges that are subsequent to the latest dated tax lien appearing on the list specified in s. 75.521 (3) (b) and to recorded restrictions as provided by s. 75.14.

(4) OWNERSHIP. An assignee who is granted a judgment under sub. (3) shall take title to, and is the owner of, the parcel that is the subject of the assignment, except that a person who commences an action under s. 75.521 (14a) related to the parcel shall commence the action against only the county that assigned judgment to the parcel under sub. (2). An assignment under sub. (2) may provide that an assignee under sub. (2) shall indemnify the county that makes the assignment and hold the county harmless against

any loss, expense, liability or damage that the county may incur as a result of an action under s. 75.521 (14a).

History: 1999 a. 121.

75.11 Compensation of printer. The printer who publishes the list and notice of the time when the redemption of land subject to a tax certificate will expire shall receive compensation therefor the same as is provided for legal notices under ch. 985, except that when the same is published under contract, as provided by law, the printer shall receive the compensation fixed by such contract and no more.

History: 1987 a. 378.

75.115 Rights of persons who have an interest in mineral rights. Notwithstanding ss. 75.14 (1), 75.16, 75.19 and 75.521 (3) (am) 4., (5), (8) and (13) (b), the failure of an owner of a fee simple interest in surface rights to pay property taxes on land does not extinguish the rights of a holder of a fee simple interest in severed mineral rights related to that land.

History: 1993 a. 391.

75.12 Deed, notice of application for. (1) No tax deed shall be issued on any lot or tract of land subject to a tax certificate unless a written notice of application for tax deed shall have been served upon the owner, or one of the owners of record in the office of register of deeds of the county wherein the land is situated. If such lot or tract be improved by a dwelling house, or building used for business purposes, or a building used for agricultural purposes, and in any of said cases, such building has been actually occupied for the purpose specified for 30 days immediately prior to the date of service of the notice of application for tax deed, or if such lot or tract of land has been occupied and cultivated for agricultural purposes for 30 days within the period of 6 months immediately prior to the date of service of the notice of application for the tax deed, then notice of application for tax deed shall be served upon the occupant or one of the occupants thereof. If the records of the office of register of deeds in the county where such land is situated show that such lot or tract of land is encumbered by an unsatisfied mortgage or mortgages, such notice of application for tax deed shall be served upon at least one of the mortgagees in each such mortgage, or upon the last assignee or one of the last assignees of each such mortgage, if the assignment is recorded.

(2) Such notice shall state the date of the tax certificate, the description of the lands involved, the amount of the delinquency and that such amount will bear interest and penalty as provided by law, and shall give notice that after the expiration of 3 months from the date of service of such notice the county will apply for a tax deed. A notice of application for a tax deed shall not be served earlier than 88 days prior to the earliest date on which the county is entitled to a deed.

(3) The notice of application for tax deed may be served by the county treasurer or any person acting for the treasurer. The notice shall be served in the manner that service of a summons in a court of record is made, or by certified mail, with return receipt of the addressee only demanded. If notice cannot be given by use of either of the foregoing methods, the county treasurer or the treasurer's agent shall make an affidavit setting forth the effort to make service, the inability to do so, and shall file the affidavit with the county clerk. In such cases the notice shall be published by the county treasurer as a class 3 notice, under ch. 985, in the county. The affidavit of the county treasurer or the treasurer's agent as to inability to secure service personally or by certified mail, together with proof of publication of the notice, shall be deemed completed service of the notice of application for tax deed.

(4) Before the tax deed is issued, proof of service, or the returned certified mail receipt, or proof of publication of the notice of application for tax deed shall be filed with the officer authorized by law to issue the tax deed, and a copy of the proof of service, returned certified mail receipt, or proof of publication with evidence of the cost of publication shall be retained by the county treasurer. A person subsequently redeeming a lot or tract of land, or any part or interest therein, shall pay in addition to the amount required to redeem the lot or tract, $1.50 for each person served with the notice or, if notice is sent by certified mail, the cost of sending any notices by certified mail, plus the cost of publication of the notice. If there is no occupant of the lands as hereinbefore defined, the county treasurer shall file an affidavit to that effect with the officer authorized by law to issue the tax deed.

(6) No tax deed shall be taken upon any notice of application therefor after one year from the last date of service of such notice.

(7) This section shall supersede all provisions of law, including the provisions of any city charter, which are in conflict with it.

History: 1979 c. 145; 1981 c. 210; 1987 a. 378; 1995 a. 225.

Due process requires that every owner of a recorded interest, including a mineral interest under s. 706.057, be provided written notice of an application for a tax deed. 74 Atty. Gen. 59.

75.13 Filing affidavit. If a proper affidavit of service of notice of application for tax deed or a proper proof of nonoccupancy, in due form, as provided in s. 75.12, has heretofore been filed with the county clerk, the fact that such affidavit of service of notice or affidavit of nonoccupancy or such proof has not been otherwise filed shall not be alleged or raised in any action or proceeding attacking or questioning the title of the county or its successors in interest in the land which was the subject of the notice or proof.

History: 1979 c. 89; 1987 a. 378.

75.14 Deeds, execution of; rights under; evidence. (1) If any land subject to a tax certificate shall not be redeemed the county clerk shall, after the expiration of the time prescribed by law for the redemption thereof, on presentation of the tax certificate and proof of service of notice, execute in the name of the state and of the county, as such officer thereof, under the clerk's hand and the seal of the county, to the county and its assigns, a deed of the land so remaining unredeemed, and shall acknowledge the same which shall vest in the county an absolute estate in fee simple in such land subject, however, to recorded restrictions and redemption as provided in this chapter; and such deed duly witnessed and acknowledged shall be presumptive evidence of the regularity of all the proceedings, from the valuation of the land by the assessor up to and including the execution of the deed, and may be recorded with the like effect as other conveyances of land. No deed may be issued under this section until the county board, by resolution, orders issuance of the deed.

(2) The county clerk shall not issue a deed of any parcel of land until by carefully comparing the advertised list of the same for redemption with the tax certificate, the clerk shall find that the description of such parcel of land so to be conveyed has been correctly and fully published, in such advertised list of redemptions; and if upon such examination the county clerk shall find any error or omission in any such advertised description the clerk shall enter opposite the description of said land in the tax certificate a statement of the fact of such error or omission. If the description of said land in the tax certificate is in error, the county board shall cause such certificate to be canceled, as it relates to that parcel, and direct the county treasurer to correct the description thereof, using the procedure under s. 74.61, and include the parcel in the tax certificate next issued under s. 74.57. If the error or omission is in only the advertised list of redemptions, the county treasurer shall correct and readvertise the same for redemption in the next such publication and the period of redemption shall be extended thereby an additional year.

(4) Whenever a deed in the chain of title shall contain valid and enforceable restrictions and covenants running with the land, as hereinafter defined and limited, said restrictions and covenants shall survive and be enforceable after the issuance of a tax deed to the same extent that they would be enforceable against a voluntary grantee of the owner of the title immediately prior to the delivery of the tax deed. This subsection shall apply to the usual restrictions and covenants limiting the use of property, the type, character and location of building, covenants against nuisances

and what the former parties deemed to be undesirable conditions, in, upon and about the property, covenants to contribute to the cost of maintaining private roads, and other similar restrictions and covenants; but this subsection shall not protect covenants creating any debt or lien against or upon the property, or that will require the owner to expend money for any purpose, except such as may require the owner to keep the premises in a sightly condition, contribute to the cost of maintaining private roads, or to abate undesirable conditions. During the period that the county is the owner of lands so acquired it shall not be required to expend any money to keep the premises in sanitary or sightly condition or to contribute to the cost of maintaining private roads or to abate nuisances or undesirable conditions, but its successors in title shall be subject thereto and to covenants and restrictions as provided in this section. Any rights the former owner had to enforce the restrictions and covenants to which this subsection is applicable against the grantor and other parties owning property subject to such restrictions and covenants, except forfeitures, right of reentry, or reverter, shall likewise survive to the county as grantee in said tax deed and to successors and assigns.

History: 1987 a. 378.

An income tax lien is extinguished by a tax deed under s. 75.14 or by a judgment under s. 75.521. 62 Atty. Gen. 234.

75.143 Defer taking of tax deed. (1) In this section:

(a) "Dwelling" means any building that contains one or 2 dwelling units and any land included with that building in the same entry on the tax roll.

(b) "Dwelling unit" means a structure or that part of a structure used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) The council of any city authorized to proceed under s. 74.87 may by ordinance direct its treasurer to defer the taking of tax deeds by the city on dwellings. The ordinance shall designate the period of time that the taking of a tax deed shall be deferred after the one−year period provided by law. The deferral period may not exceed 2 years. The deferral shall apply to those delinquent taxes and assessments incurred while the dwelling was owned and occupied by the person who owns and occupies the building at the beginning of the deferral period. If the owner ceases to occupy the dwelling during the deferral period, the city treasurer shall take a tax deed on the dwelling as soon as practicable. A city adopting an ordinance under this section may require the dwelling owner to submit proof that the owner is eligible for a deferral under this section.

History: 1981 c. 322; 1987 a. 378.

75.144 Rights of persons claiming adverse possession. (1) TITLES SUBJECT TO CLAIM OF OWNERSHIP BY ADVERSE POSSESSION. Subject to subs. (2) to (4), titles that are obtained under this chapter are subject to claims of ownership by adverse possession under s. 893.25.

(2) CLAIMS OF OWNERSHIP BY ADVERSE POSSESSION BARRED. (a) If a county obtains a survey of property complying with par. (b) and mails notice concerning the property complying with par. (c) and if no action concerning the property is commenced under sub. (3) on or before the date set forth in the notice, any claim to ownership of the property by adverse possession under s. 893.25 is barred.

(b) The survey under par. (a) shall show all of the following:

1. The size and location of the property.

2. The exterior boundaries of the property.

3. The locations of any visible structures and the dimensions of any principal buildings on the property.

4. Any boundary fences, apparent easements, roadways and visible encroachments on the property.

(c) The treasurer of the county seeking to transfer title to property under this chapter shall mail the notice under par. (a), at least 8 weeks before the date that title to the property will be transferred, to the last−known address of each owner of an interest in other real property that has a common boundary with the property. The treasurer shall attach a list containing the legal description of the property to the notice. The notice shall appear in at least 10−point boldface type or its equivalent and shall read as follows:

NOTICE REGARDING TRANSFER
OF ADJACENT PROPERTY

TAKE NOTICE THAT ANY PERSON THAT HAS OR CLAIMS TO HAVE A RIGHT, TITLE OR INTEREST IN ANY REAL PROPERTY THAT IS DESCRIBED IN THE ATTACHED LIST IS HEREBY NOTIFIED THAT .... (name of the county) WILL TRANSFER TITLE TO THE REAL PROPERTY DESCRIBED IN THE ATTACHED LIST ON .... (date of transfer of title).

TAKE FURTHER NOTICE THAT YOU ARE RECEIVING THIS NOTICE BECAUSE YOU HAVE AN INTEREST IN REAL PROPERTY THAT BORDERS ON A PIECE OF REAL PROPERTY DESCRIBED IN THE ATTACHED LIST. THE TREASURER OF .... (name of the county) HAS A COPY OF A SURVEY OF ALL REAL PROPERTY THAT IS DESCRIBED IN THE ATTACHED LIST. THE SURVEY SHOWS THE SIZE AND LOCATION OF THE REAL PROPERTY, ITS EXTERIOR BOUNDARIES, THE LOCATION OF ANY VISIBLE STRUCTURES ON THE PROPERTY, THE DIMENSIONS OF ANY PRINCIPAL BUILDINGS ON THE PROPERTY AND ANY BOUNDARY FENCES, APPARENT EASEMENTS, ROADWAYS AND VISIBLE ENCROACHMENTS. YOU MAY WISH TO LOOK AT THE SURVEY TO MAKE SURE THAT YOU DO NOT CLAIM ANY RIGHT, TITLE OR INTEREST IN THE REAL PROPERTY. IF YOU BELIEVE THAT THE SURVEY SHOWS THAT SOME OF THE REAL PROPERTY TO BE TRANSFERRED BELONGS TO YOU, YOU HAVE THE RIGHT TO ATTEMPT TO PROVE THAT THE REAL PROPERTY BELONGS TO YOU UNDER THE WISCONSIN LAW AND YOU MAY WISH TO CONSULT AN ATTORNEY.

(3) ASSERTING CLAIM OF OWNERSHIP BY ADVERSE POSSESSION. (a) Except as provided in par. (b), any person claiming ownership by adverse possession under s. 893.25 of property whose title will be or has been transferred under this chapter may commence an action to establish title as provided in s. 893.25.

(b) Any person claiming ownership by adverse possession under s. 893.25 of property for which a survey has been obtained and notice mailed in compliance with sub. (2) may commence an action to establish title as provided in s. 893.25, but the action is barred if not commenced on or before the date of transfer of title that is set forth in the notice.

(4) REIMBURSEMENTS UPON ESTABLISHING TITLE BY ADVERSE POSSESSION. Any person who establishes title by adverse possession as provided in s. 893.25 to property whose title would have been or was transferred under this chapter shall reimburse the county for the actual costs of any survey of the property obtained under sub. (2) and shall reimburse any former title holders for any amount of real estate taxes paid by the title holders on the property for any part of the 5 years preceding the date of entry of the judgment that establishes title by adverse possession.

History: 1985 a. 247; 1987 a. 378.

75.145 Correction of description by action. Any tax deed issued by a county containing an incomplete, indefinite or incorrect real estate description, and which description follows that set forth in the tax certificate upon which such tax deed issued, may be corrected in an action brought in the circuit court in the same manner as actions for the reformation of instruments. Such deed so corrected shall be valid as of the date of the first issue.

History: 1987 a. 378.

75.16 Deed, by whom executed; form. All deeds of lands given under s. 75.14 shall be executed by the county clerk in the name of the state of Wisconsin and of the county as the grantors therein, and shall be substantially in the following or other equivalent form:

To all to whom these presents shall come, greeting:

Whereas, ..., treasurer of the county of ...., has deposited in the office of the county clerk of the county of ...., in the state of Wisconsin, a tax certificate of said county, whereby it appears, as the fact is, that the following described piece (or pieces) or parcel (or parcels) of land lying and being situated in the county of ...., to wit: (Here describe the lands) was (or were) included in the tax certificate issued to the county of .... on ...., ... (date), for the nonpayment of real property taxes, special assessments, special charges or special taxes, in the amount of .... dollars and .... cents, in the whole, which sum was the amount assessed and due and unpaid on said tract (or several tracts) of land, and whereas it further appears, as the fact is, that the owner (or owners) or claimant (or claimants) of said land has (or have) not redeemed from said certificate the lands which were included as aforesaid, and said lands continue to remain unredeemed, whereby said described lands have become forfeited and the said county is entitled to a conveyance thereof:

Now, therefore, know all by these presents that the county of ...., in said state, and the state of Wisconsin, in conformity to law, have given and hereby do give, grant and convey the tract (or several tracts) of land above described, together with the hereditaments and appurtenances, to the said county of .... and its assigns, to their sole use and benefit forever.

In testimony whereof, I, ..., the clerk of the county of ...., have executed this deed pursuant to and in virtue of the authority in me vested by the statutes of the state of Wisconsin, and for and on behalf of said state and the county of .... aforesaid, and have hereunto subscribed my name officially and affixed the seal of the said .... (name it), at .... in said county of ...., this .... day of ...., ... (year)

[L. S.]

A. B.
(Here give official designation.)

Done in presence of

....
....

History: 1975 c. 94 s. 91 (8); 1987 a. 378; 1997 a. 250; 1999 a. 32.

Recitation in a tax deed that a repealed procedure had been followed renders the deed void. The filing of a void tax deed does not prevent redemption under s. 75.01. There is no authority for the retroactive amendment of a void tax deed. Theige v. County of Vernon, 221 Wis. 2d 731, 586 N.W.2d 15 (Ct. App. 1998).

75.17 Transfer of contaminated land to a municipality. **(1)** In this section:

(a) "Hazardous substance" has the meaning given in s. 292.01 (5).

(b) "Municipality" means a city, village or town.

(2) If a county does not take a tax deed for property that is subject to a tax certificate and that is contaminated by a hazardous substance, within 2 years after the expiration of the redemption period that is described under s. 75.14 (1) and specified in s. 74.57 (2) (a) and (b) (intro.), the county shall take a tax deed for such property upon receiving a written request to do so from the municipality in which the property is located. The county may then retain ownership of the property or, if the county does not wish to retain ownership of the property, the county shall transfer ownership of the property to the municipality, for no consideration, within 180 days after receiving the written request from the municipality.

History: 1999 a. 9.

75.19 Foreclosure of certificate. A county holding a tax certificate, instead of taking a tax deed, may foreclose the certificate by action as in a case of a mortgage on real estate at any time after 2 years from the date of the certificate, except that when costs incurred by any city or village for razing, removing and restoration of the site to a dust−free and erosion−free condition are included in the amount due for taxes, the period of redemption shall be one year from the date of the certificate. The county may, in any case involving the right of redemption or interest of any minor or person adjudged mentally incompetent, after a tax deed has been issued under this chapter, foreclose the right of redemption or interest of the minor or person adjudged mentally incompetent. In such an action the minor or person adjudged mentally

incompetent must appear by guardian ad litem, and the general guardian, if the person has one, shall be joined as a party defendant. All the laws and rules of practice relating to the foreclosure of mortgages, as to the persons necessary and proper to be made parties, pleading, evidence, the judgment of foreclosure and sale, the right of the county to be subrogated to the benefits of all liens upon the premises necessarily satisfied by the county in order to save the lien of the certificate, the right of the defendants or any of them to redeem the premises at any time before sale and costs and disbursements, including the necessary expenses for an abstract of title, shall, so far as they are applicable, prevail in such actions. When costs are allowed to the county, the costs, exclusive of disbursements, shall be discretionary with the court but shall not exceed the amount of the certificates at issue in the action, and the costs when allowed shall be an additional lien upon the property described in the certificates. The defendant may, in all cases within the time limited by law for answering the complaint, execute and deliver to the county a quitclaim deed of the lands described in the complaint, conveying all the right, title and interest of the defendant at the time of the commencement of the suit or may, within such time, either after having delivered the deed or without delivery, answer disclaiming any title to the lands in question at the time of the commencement of the suit, in either of which cases the county shall not recover costs against any defendant who quitclaims or who shall establish the disclaimer at the trial. The sale in such actions shall be conducted, certificates made and filed, the report made and confirmed and a deed executed and delivered in the same manner and with the same effect as in actions for foreclosure of mortgages.

History: 1977 c. 83, 174, 203, 272; 1981 c. 322; 1987 a. 378; 1989 a. 347.

75.195 Extended time for beginning tax foreclosure. **(1)** In this section:

(a) "Dwelling" means any building that contains one or 2 dwelling units and any land included with that building in the same entry on the tax roll.

(b) "Dwelling unit" means a structure or that part of a structure used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(2) The council of any city authorized to proceed under s. 74.87 may by ordinance direct its treasurer to defer the foreclosure of tax certificates held by the city on dwellings. The ordinance shall designate the period of time that the foreclosure of tax certificates shall be deferred after the period provided by law. The deferral period may not exceed 2 years. The deferral shall apply to those delinquent taxes and assessments incurred while the dwelling was owned and occupied by the person who owns and occupies the building at the beginning of the deferral period. If the owner ceases to occupy the dwelling during the deferral period, the city treasurer shall foreclose the tax certificate on the dwelling as soon as practicable. A city adopting an ordinance under this section may require the dwelling owner to submit proof that the owner is eligible for a deferral under this section.

History: 1981 c. 322; 1987 a. 378.

75.20 Limitations on certificates and issue of deeds; life of tax certificate liens. **(1)** TAX CERTIFICATES; WHEN VOID. Tax certificates shall be void after 11 years following December 31 of the year in which such certificates were dated.

(2) COUNTY TREASURER TO CANCEL ALL OUTLAWED TAXES. No deed shall be issued or action commenced on any tax certificate whatever after it shall have become void by virtue of the statute of limitations provided in this section. The interest in the land represented by such certificate shall terminate upon the last date upon which a deed could have been issued thereon, or an action could have been commenced thereon if no summons and complaint was served and filed prior to such date. The county treasurer shall cancel all tax certificates which have become void by limitation and shall make an entry in the treasurer's record of unredeemed property subject to a tax certificate evidencing such cancellation.

(3) CERTIFICATION OF CANCELLATION TO LOCAL TREASURER. Whenever the county treasurer shall cancel a tax certificate which has become void by virtue of any statutes of limitation the county treasurer shall within 30 days thereafter in writing certify such cancellation to the proper town, city or village treasurer who shall make entry thereof in his or her records. Such cancellation need not be so certified in cases where the county has settled in full with the town, city or village.

(4) STAY BY INJUNCTION NOT PART OF LIMITATION. When the issuing of a deed on a tax certificate or certificates or the commencement of an action thereon shall be stayed by injunction, the time of the continuance of such injunction shall not be a part of the time hereinabove limited in this section as the life of a tax certificate.

History: 1975 c. 198; 1981 c. 390 s. 252; 1983 a. 189; 1987 a. 378.

75.22 Validity; immaterial errors. If after the issuance of a tax certificate or conveyance to the county of any lands subject to a tax certificate and within the time hereinafter prescribed it shall be discovered that the certificate was invalid, the county board shall make an order, briefly stating the reason therefor, directing that the certificate, as it applies to the affected lands, or deed be canceled. But no certificate or conveyance shall be deemed invalid within the meaning of this section by reason of any mistake or irregularity in any of the tax proceedings not affecting the groundwork of the tax; nor shall any county be liable to pay or refund any moneys by reason of any such mistake or irregularity.

History: 1987 a. 378.

75.23 Canceled deeds, certificates of county clerk. Whenever the county board shall order the cancellation of any tax deed, the county clerk shall furnish to the owner of the lands described in such deed, upon request therefor, a certificate in writing, executed under the clerk's hand and official seal, stating the fact of such cancellation, the date thereof, the description of the lands as to which such deed is canceled, the date of such deed, the date of the issuance of the tax certificate upon which such deed is based and the reason for such cancellation. Such certificate may be recorded in the office of the register of deeds of the county where the lands therein described are located, and such record shall be prima facie evidence of the facts therein stated and of the cancellation of the tax deed therein mentioned as to the lands therein described.

History: 1987 a. 378.

75.24 Limitation, claims under illegal deed or certificate. Every action brought or claim presented against any county for the recovery of any sum of money on account of any defective or void tax certificate or tax deed made or issued by any such county shall be commenced or presented during the life of such tax certificates on which such deed was issued in accordance with the limitations as provided in s. 75.20; and whenever an action relating to the validity of a tax certificate or tax deed shall have been commenced within the time above limited and a final judgment shall not be rendered in such action until after the expiration of the time so limited, in such case an action may be commenced or claim presented on account of such certificate or deed within one year after final judgment declaring the same void.

History: 1987 a. 378.

75.25 Lien of reassessed tax. **(1)** If the county board, on making an order directing the refunding of money on account of the invalidity of any tax certificate or tax deed, shall be satisfied that the lands described in such certificate or deed were justly taxable for such tax or some portion thereof, it shall fix the amount of such tax justly chargeable thereon on each parcel thereof, and direct the same to be assessed in the next assessment of county taxes, with interest thereon at the same rate that would have applied had the tax been collected before the tax certificate was issued, or the land been redeemed from the time when such tax was due and payable to the end of the tax levy year in which such tax will be placed on the tax roll as a reassessment; and the county

clerk, in the clerk's next apportionment of county taxes, shall charge the same as a special tax to the town, city or village in which such lands are situated, specifying the particular tract of land upon which the same are to be assessed and the amount chargeable to each parcel and the year when the original tax was assessed, and certify the same to the clerk of the proper town, city or village; and the clerk receiving such certificate shall enter the same on the tax roll accordingly. The lien of any tax reassessed as provided in this section shall attach to the land as of the date when such tax as originally levied became a lien and shall continue and constitute the lien of any tax certificate issued upon such lands for such reassessed tax. Such lien shall be superior to the lien of any tax certificate issued upon such land dated after the date of the lien of such reassessed tax but prior to the date of the tax certificate issued upon such land for such reassessed tax.

(2) Whenever the county board cancels a defective or void tax certificate or tax deed and such lands cannot be justly taxed for the item in question, the county clerk shall charge the respective town, city or village wherein such lands are situated in the clerk's next apportionment of county taxes with the amount of the refund, if any, occasioned by the invalidity of such tax certificate or tax deed. That charge shall be in the amount of the tax without interest.

History: 1987 a. 378.

75.26 Limitation. (1) (a) No action may be maintained by the grantee or anyone claiming under the grantee to recover the possession of any land or any interest in land which has been conveyed by deed for the nonpayment of taxes unless one of the following conditions is met:

1. The action is brought within 3 years next after the date of the execution of the deed.

2. The land demanded is, when conveyed, vacant and unoccupied and remains so, unless the action is brought within 3 years next after the date of the recording of the deed.

3. The grantee or those claiming under the grantee have been in actual, not constructive, possession of the land demanded for 3 successive years during the 5 years next after the recording of the deed.

(b) Notwithstanding par. (a), if the former owner takes possession of any land conveyed by deed for the nonpayment of taxes at any time within the 3 months after the expiration of 3 years from the date of the execution of the deed, the grantee in the tax deed or those claiming under the grantee may bring and maintain an action to recover possession of the land at any time within the 3 months after the expiration of 3 years from the date of the execution of the deed.

(2) TAX DEED VOIDED. If the original owner, or anyone claiming under the original owner, of lands that have been conveyed by deed for the nonpayment of taxes, pays the taxes assessed against the lands continuously for the 5 years after the execution of the tax deed, without actual notice of the existence of the tax deed, the tax deed is void.

History: 1991 a. 316; 1997 a. 253.

75.27 Limitation on former owner. No action shall be maintained by the former owner or any person claiming under the former owner to recover the possession of any land or any interest therein which shall have been conveyed by deed for the nonpayment of taxes or to avoid such deed against any person claiming under such deed unless such action shall be brought within 3 years next after the recording of such deed. Whenever any such action shall be commenced upon any tax deed heretofore or hereafter issued after the expiration of 3 years from the date of the recording of such deed, such deed, if executed substantially in the form prescribed by law for the execution of tax deeds, shall be conclusive evidence of the existence and legality of all proceedings from and including the assessment of the property for taxation up to and including the execution of such deed.

History: 1991 a. 316.

75.28 Application of all limitations. (1) The limitation for bringing actions under s. 75.27 or any other limitation in favor of a tax deed or a tax certificate, except in case of actual possession founded on a tax deed or as otherwise provided in this section, does not apply in the following cases:

(a) If the taxes for the nonpayment of which the land was included in a tax certificate and the tax deed executed were paid prior to the inclusion of the land in the tax certificate.

(b) If the land was redeemed as provided by law.

(c) If the land was exempt from taxation.

(d) If a single tax deed only has been issued and the original owner has, before the issuance of the tax deed, paid all taxes levied against the land for the 3 years after the year for which the land was returned delinquent and sold.

(2) (a) The tax deed grantee or the assigns of the tax deed grantee may, at any time after the tax deed is issued and recorded, serve a notice on the owner of record of the original title, stating that he, she or they hold a tax deed on the land of the original owner and giving a description of the land so deeded and a reference to the volume and page where the tax deed is recorded. The notice shall be served in the same manner as a summons in a court of record or by registered mail, addressed to the owner of record. Proof of service of the notice shall be filed in the office of the clerk of the county in which the lands are situated.

(b) If the post−office address of the owner of record of the original title is unknown, the tax deed grantee, or the assigns of the tax deed grantee, may file in the office of the county clerk of the county in which the lands are situated an affidavit that he, she or they are unable, with due diligence, to make personal service of the notice or to ascertain the post−office address of the former owner. Upon filing the affidavit, the tax deed grantee, or the assigns of the tax deed grantee, may publish the notice as a class 3 notice, under ch. 985, in the county where the land described in the tax deed is located. Proof of publication of the notice shall be filed in the office of the county clerk.

(3) (a) If the notice described in sub. (2) is served and filed, or if the notice is published and proof of publication is filed, 30 days or more before the expiration of 3 years from the date of recording the tax deed, the limitation provided by s. 75.27 applies. If the notice is not so served and filed, or if the notice is not published and proof of publication is not filed, the limitation under s. 75.27 is extended until the expiration of 30 days after the day on which the notice is served and filed or published and proof filed.

(b) In any action brought by the original owner to set aside a tax deed after the service or publication and filing of the notice described in sub. (2), the original owner, in case the original owner prevails, shall as a condition of relief pay to the tax deed claimant the sum of $5 for each description and the costs of serving or publishing the notice, in addition to all other costs and charges now provided for by law. The provisions of law regulating costs and charges for the service of a summons in a court of record apply to and govern the amount that may be charged for the service or publication of the notice.

History: 1987 a. 378; 1991 a. 316; 1997 a. 253.

75.285 Action; condition precedent. No action or proceeding shall be maintained by the former owner or any person claiming under the former owner, based upon the invalidity of any tax certificate or tax deed due to the failure of the county treasurer to give notice under s. 74.59, unless there is deposited with the clerk of circuit court, at the time the action is commenced under s. 801.02, an amount of money equal to either the full amount of all delinquent taxes currently outstanding against the parcel of property which is the subject of the action, plus interest and penalty under s. 74.47, or if the county has taken a tax deed, the full amount payable under s. 75.36 (3) (a) and (b). The deposited funds shall be held by the clerk of circuit court and paid out as directed by the judgment in the action or proceeding.

History: 1981 c. 390; 1987 a. 378.

75.29 Actions of ejectment, when barred. (1) Subject to sub. (2), no action to quiet title, to remove a cloud on title; to cancel, to annul or to set aside any tax deed; of ejectment, of trespass, of waste or for other injury to land shall be brought as to lands purporting to be conveyed by a tax deed void on its face after the expiration of 3 years from the time of the recording of the deed.

(2) The limitation period under sub. (1) does not apply unless each of the following occurs:

(a) The original owner or those claiming under the original owner have failed to pay or redeem all of the taxes levied on the lands from the time of the levy of the tax for the nonpayment of which the tax deed was issued to the time of the recording of the tax deed.

(b) The grantee in the tax deed or those claiming under the grantee in the tax deed have paid or redeemed all of the taxes levied on the lands for the 3 years after the recording of the tax deed.

History: 1991 a. 316; 1997 a. 253.

75.30 Action by original owner if deed is void, when barred. No action may be brought by the original owner for the recovery of lands purporting to be conveyed for the nonpayment of taxes by a deed void on its face after the expiration of 5 years from the date of the recording of the tax deed, if the grantee in the tax deed has taken actual possession of the land within 2 years after the recording of the tax deed and has actually and continuously maintained possession of the lands to the end of the 5−year period from the recording of the deed.

History: 1997 a. 253.

75.31 "Possession" defined. What shall constitute a possession of lands within the meaning of ss. 75.26 to 75.30 and the extent of such possession shall be governed by the rules prescribed for determining an adverse possession by a person claiming title founded upon a written instrument.

75.32 Taxation and sale of lands held by counties. Real property upon which the county holds a tax certificate shall continue liable to taxation, but when a tax deed shall be issued to the county such property shall thereafter be exempt from taxation until the same is sold by the county. The county clerk shall annually, before February 1, furnish to the assessors of each town a list of the lands in such town exempt under this section. Nothing in this section shall be so construed as to apply to lands owned by minors or persons adjudged mentally incompetent.

History: 1977 c. 29 s. 1647 (6); 1977 c. 83, 203; 1987 a. 378.

75.35 Sale of tax−deeded lands; purchase of adjacent lands. (1) DEFINITION. In this section "tax−deeded lands" means lands which have been acquired by a county through enforcement of the collection of delinquent taxes by tax deed, foreclosure of tax certificate, deed in lieu of tax deed, action in rem under s. 75.521 or other means.

(2) POWER OF COUNTY TO SELL TAX−DEEDED LANDS. (a) Except as provided in s. 75.69, any county shall have the power to sell and convey its tax−deeded lands in such manner and upon such terms as the county board may by ordinance or resolution determine, including without restriction because of enumeration, sale by land contract, or by quitclaim or warranty deed with mortgage from vendee to secure any unpaid balance of the purchase price. Such mortgage may be foreclosed in the same manner as any other mortgage. The title to lands conveyed by land contract shall remain in the county until fully paid for and in the event of default in such payment the county may foreclose the land contract with costs and reasonable attorney fees. When such land contract runs to a person or private corporation, the lands therein conveyed shall be placed on the tax roll and be subject to taxation the same as though absolute title thereto was vested in the purchaser under such land contract. Such purchaser shall be liable to pay all taxes against such land and in the event of failure to make such payment the county may pay the same and add the sum so paid to the amount due on the land contract.

(c) Any conveyance by land contract or deed or satisfaction of mortgage shall be executed by the county clerk under the clerk's hand and the seal of the county.

(d) The county board may delegate its power to manage and sell tax−deeded lands to a committee constituted of such personnel and in such manner and compensated at such rate as the county board may by ordinance determine, provided that the compensation and mileage of county board members serving on such committee shall be limited and restricted as provided in s. 59.13 (2), or the county board may delegate the power of acquisition, management and sale of tax−deeded lands or any part of such power to such officer and departments of the county as the county board may by ordinance determine. Such ordinance shall prescribe the policy to be followed in the acquisition, management and sale of tax−deeded land and shall prescribe generally the powers and duties of such committee, officers, departments, employees and agents. The county board is authorized to engage licensed real estate brokers and salespersons to assist in selling such lands and pay a commission for such service and to advertise such sale in such manner as it deems proper. The county board may appropriate such sums of money as may be necessary to carry out the provisions of this section.

(e) Any county acting either by its board or by delegated authority as provided in this section may sell and convey tax−deeded lands to the former owner or owners thereof and such conveyance shall not operate to revive any tax certificate lien or any other lien whatsoever which was cut off and rendered void by the tax deed, foreclosure of tax certificate, deed in lieu of tax deed, action in rem under s. 75.521 or other means by which the county acquired title to such land, nor shall it revive the lien of any tax certificate or tax dated subsequently to the date on which the county acquired its title. The enactment into statute law of the provisions of this paragraph shall not be deemed an expression of legislative intent that the prior common law of this state was otherwise than as herein provided.

(f) If special assessments, as defined in s. 75.36 (1), levied on the tax−deeded land have not been settled in full under s. 74.29 or otherwise paid to the taxing jurisdiction that levied the special assessments, the taxing jurisdiction may purchase the tax−deeded land by notifying the county of its intent to do so at any time within one year after the period of redemption has expired but prior to the date upon which the tax−deeded land is sold to another person by the county. The amount for which the tax−deeded land may be purchased shall be the sum of the following:

1. All expenses incurred by the county to obtain marketable title to the property, except that the time of county employees and officers may not be included in those expenses. The county may establish a reasonable estimate of the average cost to obtain marketable title to property which it may use instead of determining the actual costs for any parcel sold by the county.

2. All amounts of unpaid general property taxes, special assessments, special charges and special taxes levied against the property sold, including interest and penalties imposed under s. 74.47 previously paid to taxing jurisdictions by the county.

3. Any withdrawal tax due under s. 77.84 (3) (b).

4. Any unpaid special assessments or special charges that were not levied by the taxing jurisdiction purchasing the tax−deeded land. The county shall pay any amounts received under this subdivision to the taxing jurisdiction which levied the special assessment or special charge.

(3) PREFERENCE TO FORMER OWNER TO REPURCHASE. The county board may, at its option, by ordinance provide that in the sale of tax−deeded lands, the former owner who lost his or her title through delinquent tax collection enforcement procedure, or his or her heirs, may be given such preference in the right to purchase such lands as such ordinance shall provide. Such ordinance may provide that such sale be exempt from any or all provisions of s. 75.69 if the net proceeds from the sale to the former owner as determined under s. 75.36 (3) will be sufficient to pay all special

assessments and special charges to which the property is subject, including interest imposed under s. 74.47, or if the county settles in full with the taxing jurisdiction for special assessments, as defined in s. 75.36 (1), to which the property is subject. Such ordinance shall not apply to tax−deeded lands which have been improved for or dedicated to a public use by the county subsequent to its acquisition thereof.

(4) PURCHASE OF ADJACENT LANDS. A county may purchase lands adjacent to tax−deeded lands in cases where the county board determines that such purchase will improve the salability of such tax−deeded lands or will create access to streets or highways for lands lacking such access.

(7) LIABILITY PRECLUDED. Absent fraud, no county is liable for acts or omissions associated with the sale of property under this section.

History: 1987 a. 27, 378; 1989 a. 104; 1993 a. 184; 1995 a. 201.

Cross−reference: See s. 59.52 (6) for power of county to direct county clerk to sell or contract for sale and conveyance of land owned by county, whether acquired by tax deed or otherwise.

An ordinance under sub. (3) allowed a mortgagor to reacquire foreclosed property free of the mortgage lien. Bank of Commerce v. Waukesha County, 89 Wis. 2d 715, 279 N.W.2d 237 (1979).

75.36 County acquisition and sale of property. (1) DEFINITION. In this section, "special assessments" means unpaid instalments of special assessments which were levied on real property prior to the date that the county acquired the real property by taking of a tax deed under this chapter. "Special assessments" includes amounts delinquent when the property became subject to a tax certificate, instalments which became delinquent during the time the property is subject to a tax certificate and all instalments payable after the date the county takes a tax deed under this chapter. "Special assessments" does not include unpaid amounts of special assessments deferred under s. 66.0715 (2), unless the taxing jurisdiction has acted under s. 66.0715 (2) (b).

NOTE: The cross−reference to s. 66.0715 (2) (b) was changed pursuant to 1999 Wis. Act 150, section 672, which incorrectly indicated that s. 66.605 (3) was to be changed to 66.0715 (2) (c). The previously existing cross−reference was to s. 66.605 (2), which was renumbered to s. 66.0715 (2) (b) by Act 150, as shown here. Corrective legislation is pending.

(2) ACQUISITION OF PROPERTY BY COUNTY, EFFECT ON LIABILITIES. (a) If property is acquired by a county taking a tax deed under this chapter, the county is not required to pay any special charges or special assessments until the property is sold by the county. In the case of lands designated as forest croplands or managed forest lands, the county is not required to pay any taxes under s. 77.04, 77.07 or 77.87 until the forest crop is cut. The liens of the tax certificate and of all general property taxes, special assessments, special charges and special taxes levied against the property shall merge in the county's title.

(b) If the county did not settle for unpaid special assessments or special charges under s. 74.29, the county treasurer shall notify all taxing jurisdictions that the county has acquired the property under this chapter. Each taxing jurisdiction shall certify to the county treasurer the unpaid special assessments and special charges to which the property is subject.

(c) If the county's title to the lands taken by tax deed is adjudged to be void, the county shall reinstate any canceled taxes and any liens previously merged under par. (a).

(2m) NOTICE; PROCEEDS. Upon acquisition of a tax deed under this chapter if sub. (4) applies, the county treasurer shall notify the former owner, by registered mail or certified mail sent to the former owner's mailing address on the tax bill, that the former owner may be entitled to a share of the proceeds of a future sale. If the former owner does not request, in writing, payment within 60 days after receipt of that notice, the former owner forfeits all claim to those proceeds. If the former owner timely requests payment, the county shall send to the former owner the proceeds identified in sub. (3) (c) minus any delinquent taxes, interest and penalties owed by the former owner to the county in regard to other property and minus the greater of the following amounts:

(a) Five hundred dollars plus 50% of the amount obtained by subtracting $500 from the proceeds identified in sub. (3) (c).

(b) The actual costs of the sale as specified under sub. (3) (a) plus 2% of the sale price plus all amounts disbursed under sub. (3) (b) and plus the amount of property taxes that would have been owed on the property for the year during which the sale occurs if the county had not acquired the property.

(3) DISTRIBUTION OF PROCEEDS OF SALE. If a county sells property that was acquired by taking of a tax deed under this chapter, the county treasurer shall do all of the following:

(a) Determine the net proceeds from the sale of the property by subtracting from the sale price all of the following:

1. The following costs, including personnel costs associated with them: foreclosure costs, record−keeping costs, legal costs, advertising costs and title insurance costs. A county may establish a reasonable estimate of the average costs under this subdivision incurred with respect to property sold after the taking of a tax deed which it may use instead of determining the actual costs for any parcel sold by the county.

1m. The following actual costs, including personnel costs associated with them: maintenance costs that are required for compliance with building codes or health orders, board−up costs, clean−up costs, demolition costs and all other costs that are reasonable and necessary to sell the property except costs under subd. 2.

2. The amount of real estate agent or broker fees paid for selling the property.

3. All amounts of unpaid general property taxes, special assessments, special charges and special taxes levied against the property sold, including interest and penalties imposed under s. 74.47 previously paid to taxing jurisdictions by the county.

(b) From the net proceeds of the sale of the property, as determined under par. (a), first pay any withdrawal tax due under s. 77.84 (3) (b) and then pay to taxing jurisdictions all special assessments and special charges to which the property is subject, including interest and any penalties imposed under s. 74.47. If the net proceeds are not sufficient to pay all outstanding amounts due, the net proceeds shall be prorated to each taxing jurisdiction based upon the ratio that the amount of all special assessments and special charges due that taxing jurisdiction bears to the amount of all special assessments and special charges levied against the property sold, including interest and any penalties imposed under s. 74.47. Amounts payable under this paragraph shall be paid to the taxing jurisdiction within 15 days after the last day of the month in which sale proceeds become available to the county.

(c) Distribute any remaining net proceeds that are subject to sub. (4).

(4) HOMESTEAD PROCEEDS. If the former owner had used the property sold as the former owner's homestead at any time during the 5 years preceding the county's acquisition of it under this chapter, the county shall distribute the remainder of the sale proceeds to that former owner.

History: 1987 a. 378 ss. 120, 122; 1989 a. 104; 1997 a. 72, 224; 1999 a. 150 s. 672.

75.365 Agreements as to delinquent taxes. (1) COUNTIES MAY ENTER. Written agreements may be entered into and be operative between a county and any town, city, village, metropolitan sewerage district or area, drainage district, or any other territory, area or district for the benefit of which any taxes may be levied, therein, upon prior authorization and approval thereof by the governing bodies thereof, providing for the disposition of liabilities of the county to such municipality upon or arising out of the return to said county of delinquent taxes; the disposition of tax certificates of which the county may be the holder or owner; the liabilities of the county arising by virtue of its acquiring such tax certificates, and the disposition of such liabilities; the taking of tax deeds by the county; the liabilities of the county arising out of the taking of such tax deeds and the disposition of such liabilities; the

sale of the lands upon which such tax deeds are so taken, or both; and the determination and disposition of any and all liabilities of the county in respect to any of the foregoing.

(2) LIABILITY OF COUNTY LIMITED. Such agreements may include provisions that the county upon acting pursuant to such agreement and the provisions thereof shall not be accountable or liable for any amount greater than that realized by it upon the sale of said lands to which it takes tax deed thereunder or the amounts set forth in said agreement, and that in acting pursuant to such agreement the county shall not incur or be subjected to any liability to anyone except as therein set forth and that if such county should by reason of acting thereunder incur or be subjected to any other or different liability to pay or account in respect to such delinquent taxes, then such local municipality will reimburse the county for such excess liability and indemnify it against any loss or damage that the county may sustain by reason of acting pursuant to such agreement; provided, that the city, town or village entering into such agreement may make payment, settlement or compromise of special assessment bonds to preclude or relieve the county from being subjected to liability thereon.

(3) SALE UNDER AGREEMENT. In the event of such agreement the county may sell any of the land to which it takes tax deed pursuant thereto, and that the title conveyed by the county upon such sale shall be in fee simple and free and clear from all tax liens or claims arising out of delinquent special assessments, delinquent general taxes, or both, except delinquent special assessments, delinquent or unpaid general taxes, or both, returned to the county after such sale by the county. Such agreement may provide that the county may sell any land, to which it has taken tax deed thereunder, at private or public sale. The county or the local municipality in which the land is situated may purchase such land when sold by the county pursuant to such agreement.

(4) APPLICABILITY. This section shall be controlling and operative in respect to delinquent taxes authorized by the proper governing body to be imposed against lands, whether heretofore or hereafter returned delinquent, and the provisions hereof shall be applicable to such taxes, except that it does not repeal any of the provisions of the general statutes nor affect the applicability thereof to situations not covered herein.

History: 1987 a. 378.

75.37 Waste on land subject to a tax certificate. (1) It shall be unlawful for any person or corporation to cut, destroy or remove any logs, wood or timber or any buildings, fixtures and other improvements assessed as real property from any land included in a tax certificate for the nonpayment of taxes while such taxes remain unpaid; and if any person shall cut, destroy or remove the same from such lands during the time aforesaid the county treasurer of the county in which such lands are situated shall issue a warrant under the treasurer's hand and seal to the sheriff, giving therein a description of such lands, the amount of such taxes, with interest and charges thereon then remaining unpaid and the years for which the same are unpaid, commanding such sheriff forthwith to seize such logs, wood, timber, buildings, fixtures and improvements, or materials salvaged therefrom, wherever the same may be found and to sell the same or a sufficient amount thereof to satisfy such taxes, with the interest and charges thereon and the costs of such seizure and sale.

(2) The sheriff shall receive such warrant and execute the same as therein directed, as in case of levy and sale on execution, and make return thereof with his or her doings thereon to the county treasurer within 60 days after the receipt of the same and pay over all money collected thereon to such treasurer.

History: 1987 a. 378.

75.375 Waste on lands subject to a tax certificate; penalty. Any person who shall wilfully, maliciously or wantonly injure, destroy or commit waste upon any lands, tenements, or anything appertaining thereto which has been included in a tax certificate for the nonpayment of taxes while such taxes remain unpaid may be fined not more than $500 or imprisoned not more than 90 days or both.

History: 1987 a. 378.

75.377 Inspection of property subject to tax certificate. A county may enter any real property for which a tax certificate has been issued under s. 74.57, or may authorize another person to enter the real property, to determine the nature and extent of environmental pollution, as defined in s. 299.01 (4).

History: 1993 a. 453; 1995 a. 227; 1999 a. 150 s. 286; Stats. 1999 s. 75.377.

75.39 Action to bar former owner. A county, as the grantee named in any deed made by a county clerk, which conveys lands subject to a tax certificate which has not been redeemed may, at any time within 3 years after the date of such conveyance, commence an action against the person or persons owning the lands described in such conveyance at the time the lands were included in the tax certificate upon which such conveyance was made, or any parcel thereof or interest therein, or against any person or persons claiming under such owner or owners, for the purpose of barring such former owner or owners and those claiming under them of all right, title, interest or claim in such lands.

History: 1987 a. 378.

75.40 Action, where and how brought. Such action must be brought in the circuit court of the county in which the lands or some parcel of them, the title of which is sought to be barred by such action, are situated. The county, as plaintiff in such action, may include in its complaint all the lands described in such conveyance, or any separate parcel, or as many separate parcels thereof as it sees fit. The county shall make defendants of all persons who were the former owners of the several parcels of land included in the complaint or those claiming under them or claiming any interest therein.

History: 1987 a. 378.

75.41 Complaint. The complaint in such action shall contain: a description of all the lands the title to which is sought to be barred by such action; a statement that the county claims title to such lands under a deed made by the county clerk and a copy of such deed; the name or names of the former owner or owners of the several tracts of land described therein or the names of the persons claiming under such owner or owners, specifying the persons claiming each separate parcel thereof; and the amount of all delinquent taxes at the time the deed was issued.

History: 1987 a. 378.

75.42 Defense, answer. (1) The defendants in such action may answer severally, or such of them as are jointly interested in any separate parcel or parcels of land described in the complaint may answer jointly, either to the whole complaint or to any separate cause of action stated therein, that the action thereon was not commenced within the time limited by s. 75.39; that the lands described in such complaint or some part or parts thereof to which the defendant or defendants so answering claim title or some interest therein were not liable to taxation at the time the tax for the nonpayment of which the land was included in a tax certificate and conveyed as specified in the complaint was levied; or that the tax for the nonpayment of which said lands purport to have been included in a tax certificate was in fact paid before the land was included in the certificate; or that the land was redeemed as provided by law; or that the deed, a copy of which is set forth in the complaint, was never executed by the officer whose name is subscribed thereto; or that the lands described in the complaint or some part thereof were improved, occupied or cultivated as described in s. 75.12 (1), and that no notice was served upon the defendant or owner or occupant, as required by s. 75.12, and no other defense to such action shall be set up by any defendant or defendants unless the defendant or defendants setting up the same shall, at the time of filing the answer, deposit with the clerk of the court in which such action is pending, for the use of the county as plaintiff in such action, the amount of all delinquent taxes, plus

interest and penalty, due on the parcel or parcels of land as to which they defend, at the time the deed was issued, together with interest thereon at the rate of 8% per year from the date of the tax certificate upon which such deed was issued; and shall state in the answer the fact that such deposit has been made, and the amount thereof, and that such defendant is ready to pay such portion of the costs and disbursements in the action as shall be adjudged just and reasonable, in case the county shall elect to receive such deposit and release to said defendant or defendants the parcel or parcels of land on account of which such deposit is made; and any defendant or defendants making the deposit and offer aforesaid may set up in their answer any other matter of defense which will avoid such deed; but no answer merely alleging the defendant's title, or denying the county's title to the lands described in such complaint, or any part or parcel thereof, or which merely alleges that the deed to the county is void shall be a sufficient answer; but every answer shall state specifically the grounds on which the defendant or defendants rely for avoiding the deed of the county.

(2) The defendant may, in all cases within the time limited by law for answering the complaint, execute and deliver to the county a quitclaim deed of the lands described in the complaint, conveying all the right, title and interest of such defendant at the time of the commencement of the suit; or may, within such time, either after having delivered such deed or without such delivery, answer disclaiming any title to the land in question at the time of the commencement of the suit, in either of which cases the county shall not recover costs personally against any such defendant who quitclaims as aforesaid or who shall establish such disclaimer upon the trial of such action. In no case shall costs be taxed as a personal claim against any defendant for attorney fees in excess of $25.

History: 1979 c. 110 s. 60 (13); 1987 a. 378.

75.43 Election to receive deposit; costs. The county may, at any time within 20 days after receiving an answer showing that a deposit has been made by any defendant or defendants as provided in s. 75.42, give notice to such defendant or defendants that it elects to receive such deposit and that it will, at a time specified in such notice, apply to the clerk of the circuit court, circuit judge or a court commissioner to adjust the costs and disbursements which said defendant or defendants ought to pay, and that upon the payment of the costs and disbursements so adjudged the county will release to such defendant or defendants all right, title and claim which it has to the parcel or parcels of land on account of which such deposit is made by virtue of any deed made for the nonpayment of taxes; and unless such costs are paid within 20 days after the same shall have been so adjusted the clerk of the court shall, upon presentation of an affidavit showing the nonpayment thereof, enter judgment therefor in favor of the county and against the defendant, which shall be enforced as other money judgments.

History: 1987 a. 378.

75.44 Release. On the payment of the costs by such defendant or defendants or the collection thereof the county shall execute a release to said defendant or defendants of all such right, title, interest or claim in said parcel or parcels of lands, duly acknowledging the same, and deliver it to the said defendant or defendants; and thereupon said action shall be discontinued as to the said parcel or parcels of land so released.

History: 1987 a. 378.

75.45 Deed as evidence. In any action maintained under the provisions of this chapter the production of a deed, a copy of which is set forth in the complaint substantially in the form prescribed by law or a certified copy of the record thereof, shall be presumptive evidence of an absolute title in fee simple in the county, as the grantee therein named or its assigns in and to the land therein described.

History: 1987 a. 378.

75.46 Trial; defendant's interest. All issues of fact and of law joined in any such action shall be tried by the court unless the court shall otherwise direct or unless a party to an issue of fact in any such action shall demand a trial by jury, in which case such issues shall be tried by jury as other issues of fact; and on the trial of every such action every defendant shall be deemed to have a redeemable interest in all the lands described in the county's complaint in respect to which any relief or judgment is sought against such defendant, unless it be otherwise alleged therein.

History: 1987 a. 378.

75.47 Separate trials. The trial of any issue of fact or of law in such action joined with any defendant or defendants claiming title to and defending as to any separate parcel or parcels of land shall be had separately and a separate judgment may be rendered on such issue.

75.48 Effect of judgment. If a judgment shall be rendered either for want of an answer or upon the trial of an issue of law or fact in favor of the county and against the defendants claiming such lands or against a defendant or defendants claiming any separate parcel or parcels thereof, such judgment shall forever bar such defendants and all others claiming under them, after the filing of a notice of the pendency of such action as provided by law, from all right, title or interest in said lands or in such separate parcel or parcels thereof.

History: 1987 a. 378.

75.49 Judgment for defendant. If in any such action judgment be rendered in favor of any defendant claiming any parcel or parcels of said lands or interest therein, such judgment shall adjudge that there be released to such defendant all the county's right, title or claim, at the time of the commencement of the action, by virtue of any deed made for the nonpayment of taxes to the land or interest as to which such judgment is rendered, and that the defendant recover the defendant's costs and disbursements in the action; and the money, if any, deposited by such defendant upon answering shall be applied in payment of such costs, and the surplus of such deposit, if any, shall be paid to the county.

History: 1987 a. 378.

75.50 Unknown owners. If the county as plaintiff in such action cannot ascertain who are the proper persons to make defendants as to any tract or parcel of land described in the complaint, it may allege the fact in the complaint and they may be proceeded against as nonresident defendants and shall be described in the proceedings as unknown owners.

History: 1987 a. 378.

75.52 Judgment a bar, when. No such action shall be commenced by any person under the provisions of this chapter after a judgment shall have been rendered against that person in any action founded on such tax deed commenced by that person or those under whom that person claims for the recovery of the possession of the lands described in such deed or any part thereof, nor after a judgment shall have been rendered against that person in an action brought by the former owner to recover possession of the lands described in such deed or any part thereof.

History: 1991 a. 316.

75.521 Foreclosure of tax liens by action in rem. (1) DEFINITIONS. Wherever used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "County" means one of the counties of the state of Wisconsin.

(b) "Tax lien" means the lien or interest evidenced by any tax certificate upon which a tax deed may be applied for as provided by law.

(c) "Treasurer" means the treasurer of a county.

(2) APPLICATION OF THIS SECTION. (a) *Adoption of method.* Notwithstanding the provisions of any other general, special or local law relating to foreclosure of tax certificates, taking of tax deeds upon tax certificates, and perfecting such tax deed title by bar former owner action or quiet title action, or conveyance from

former owners of any interest in said lands, the governing body of any county may elect to enforce the collection of tax liens, the taking of tax title in the name of such county to tax delinquent lands and the perfecting of such tax title in the county in the cases where this section applies by means of the methods provided for in this section. Such election shall be evidenced by an ordinance to such effect in substantially the following form:

"ORDINANCE ELECTING TO PROCEED UNDER SECTION 75.521 Wis. Stats. IN RELATION TO THE ENFORCEMENT OF COLLECTION OF TAX LIENS.

The county board of supervisors of the county of .... do ordain as follows:

From and after .... (*here insert dates*) the .... (*here insert name of county*) elects to adopt the provisions of section 75.521 Wis. Stats. for the purpose of enforcing tax liens in such county in the cases where the procedure provided by such section is applicable."

Upon the adoption of such ordinance, the provisions of this section shall be applicable to such county and the treasurer need not, thereafter, proceed upon its tax certificates in cases where this section is applicable in any of the other methods provided by ch. 75 or its charter provisions but may do so at the treasurer's option.

(b) *Rescission of election to operate under section 75.521.* Any county, after at least one year from the adoption of such ordinance, may rescind such election by an ordinance to such effect, which ordinance shall be adopted in the same manner as the original ordinance. Upon the adoption of a rescinding ordinance, the provisions of this section shall cease to be applicable to such county.

(c) *Saving clause.* Neither the election to adopt s. 75.521 nor the election to rescind the same shall affect any action or proceeding for foreclosure of the tax lien commenced prior to such election or rescission and such action or proceeding may be continued in the same manner as though such election or rescission had not been made.

(d) *Provisions of in rem method supersede.* Whenever any county shall have adopted this section and is using the procedure herein provided, the provisions of this section shall, with respect to the particular tax liens being collected, supersede the provisions of all general, special or local laws relating to the collection of tax liens by such county in conflict therewith, provided that nothing contained in this subsection nor any use made of the procedure provided in this section shall prevent the use of other procedures provided for in other sections of the statutes in the collection of other tax liens at the option of the county treasurer.

(3) COMMENCEMENT OF PROCEEDING TO FORECLOSE TAX LIEN. (a) Whenever any land has been included in a tax certificate, the treasurer may file in the office of the clerk of the circuit court of the county, one or more lists of parcels of property affected by unpaid tax liens as shown on the tax certificates in the treasurer's office. The treasurer may file the list when any of the following time periods elapses after the date of the tax certificate:

1. One year, if razing, removing and restoration of the site to a dust−free and erosion−free condition costs incurred by any city or village are included in the amount due for taxes.

2. One year, if the tax certificate is held by any city authorized to proceed under s. 74.87 or by any county that has a population of 500,000 or more.

4. Two years, if none of the conditions specified in subds. 1. and 2. applies.

(am) The parcels shall be numbered consecutively in the list prepared under par. (a). The list shall be known as the "List of Tax Liens of .... County Being Foreclosed by Proceeding in Rem .... (year) No. ...." and shall bear the following caption:

"STATE OF WISCONSIN

CIRCUIT COURT

.... COUNTY

In the matter of the foreclosure of tax liens under section 75.521 Wisconsin Statutes by .... County, List of Tax Liens for .... (year), Number ....". The list shall contain as to each parcel, the following:

1. A brief description sufficient to identify each parcel affected by such tax lien. The description shall state the lot, block and section number of any parcel upon any tract, the plat or map of which is recorded and filed in the office of the register of deeds of such county. If the lands be unplatted an engineer's metes and bounds description shall be a sufficient description.

2. The name or names of the last owner or owners and mortgagee or mortgagees of the parcel as the ownership or mortgage interest appears of record in the office of the register of deeds of the county in which the parcel is situated, and the state of Wisconsin if it has a determined but unpaid death tax lien, a filed, nonoutlawed income or franchise tax warrant or a judgment entered in the judgment and lien docket, all in the county where the parcel is situated.

3. A statement of the amount of the principal sum of each tax lien in the hands of the county treasurer, together with the date from which and the rate at which interest shall be computed on said principal sum.

4. A petition to the court for judgment vesting title to each of said parcels of land in the county, as of the date of entry of judgment and barring any and all claims whatsoever of the former owner or any person claiming through and under the former owner since the date of filing the list of tax liens in the office of the clerk of the circuit court.

5. The names of all municipalities, other than the foreclosing county, having any right, title or interest in the land or in the tax liens or in the proceeds thereof.

(b) Such list of tax liens shall be verified by the affidavit of the county treasurer and shall be posted in the treasurer's office. The filing of such list of tax liens in the office of the clerk of the circuit court shall constitute and have the same effect as the filing and recording in the office of the register of deeds of such county of a separate and individual notice of the pendency of such proceeding as to each parcel described in such list, and likewise, not withstanding any other provision of law, shall constitute the commencement of a special proceeding by the county against each parcel of real estate therein described and have the same effect as the filing or recording of an individual and separate petition or complaint by the county against each parcel of real estate therein described to enforce the payment of the tax liens against such property.

(c) A copy of the petition and so much of the list of tax liens as shall include the description of a particular parcel shall be mailed by registered or certified mail, return receipt requested, by the county treasurer to the last−known post−office address of each owner and mortgagee of record, the state of Wisconsin in the instances specified in par. (am) 2., and to each municipality, other than the foreclosing county, having any right, title or interest in the land or in the tax liens or the proceeds thereof. An affidavit of the treasurer setting forth the names of the owners, mortgagees, the state of Wisconsin in the proper case and municipalities for whom a post−office address has been ascertained, giving the addresses and stating that notice was mailed, giving the date of mailing, and stating that no present post−office address was ascertainable for the other owners and mortgagees, shall be filed and constitute full compliance with this paragraph.

(3m) EXTENDED TIME FOR FORECLOSING TAX LIENS. (a) In this subsection:

1. "Dwelling" means any building that contains one or 2 dwelling units and any land included with that building in the same entry on the tax roll.

2. "Dwelling unit" means a structure or that part of a structure used as a home, residence or sleeping place by one person or by

2 or more persons maintaining a common household, to the exclusion of all others.

(b) The common council of any city authorized to proceed under s. 74.87 may by ordinance direct its treasurer to defer the foreclosure of tax liens on dwellings. The ordinance shall designate the period of time that the foreclosure of tax liens shall be deferred after the one−year period provided under sub. (3) (a) 1. and 2. The deferral period may not exceed 2 years. The deferral shall apply to those delinquent taxes and assessments incurred while the dwelling was owned and occupied by the person who owns and occupies the building at the beginning of the deferral period. If the owner ceases to occupy the dwelling during the deferral period, the city treasurer shall foreclose the tax lien on the dwelling as soon as practicable. A city adopting an ordinance under this subsection may require the dwelling owner to submit proof that the owner is eligible for a deferral under this subsection.

(4) DUTY OF THE CLERK OF CIRCUIT COURT. Each clerk of the circuit court with whom the list of tax liens is filed shall index it by year and list number, and alphabetically by the names of those set forth in the list, under sub. (3) (am) 2., in a separate record kept for that purpose and the clerk shall be entitled to a fee of $3 for receiving, filing and indexing of each such list, in lieu of any other fees to which he or she might otherwise be entitled for those services. The circuit court of the county in which the delinquent list is filed has jurisdiction of the proceeding authorized by this section.

(5) RIGHTS OF PERSONS HAVING AN INTEREST IN PARCELS OF LAND AFFECTED BY TAX LIENS. Every person, including any municipal taxing district other than the county, having any right, title or interest in, or lien upon, any parcel described in such list may redeem such parcel by paying all of the sums mentioned in such list of tax liens together with interest thereon and the reasonable costs that the county incurred to initiate the proceedings under sub. (3) plus the person's share of the reasonable costs of publication under sub. (6), or such portion thereof as is due for the interest therein or part thereof owned by such person which amount shall be determined by the county treasurer on application, before the expiration of the redemption period mentioned in the notice published pursuant to sub. (6), or may serve a verified answer upon the county treasurer of such county, as provided in sub. (7). The caption of such answer shall contain a reference to the number or numbers of the parcels concerned as shown by the treasurer's list. Such answer must be served on said county treasurer and filed in the office of the clerk of the circuit court within 30 days after the date mentioned in the notice published pursuant to sub. (6), as the last day for redemption. In the event of the failure to redeem or answer by any person having the right to redeem or answer within the time herein limited, such person, and all persons claiming under and through that person, from and after the date of the filing of said list of tax liens with the clerk of the circuit court, shall be forever barred and foreclosed of all his or her right, title and interest in and to the parcel described in such list of tax liens and a judgment in foreclosure may be taken as herein provided. Upon redemption as permitted by this section, the person redeeming shall be entitled to a certificate evidencing such redemption from the county treasurer of such county, describing the property in the same manner as it is described in such list of tax liens and the fact of such redemption shall be noted upon the tax rolls in the office of the county treasurer, who shall file a certified copy of such redemption certificate with the clerk of the circuit court and upon such filing, such clerk shall note the word "Redeemed" and the date of such filing opposite the description of said parcel on such list of tax liens. Such notation shall operate to cancel the notice of pendency of proceeding with respect to such parcel or such portion thereof. The person so redeeming shall be entitled to add the amount paid in redemption to the face amount of any lien which the person may have against said lands and to have interest thereon until paid.

(6) PUBLIC NOTICE OF IN REM PROCEEDING. Upon the filing of such list in the office of the clerk of the circuit court, the county treasurer forthwith shall prepare a notice that such list of tax liens and petition has been so filed and a copy thereof posted in the office of said county treasurer. The treasurer shall cause such notice, together with the list of tax liens and petition, to be published as a class 3 notice, under ch. 985. Such notice shall be in substantially the following form:

NOTICE OF COMMENCEMENT OF PROCEEDING
IN REM TO FORECLOSE TAX LIENS
BY .... COUNTY

(Here insert list of tax liens and petition as filed in office of clerk of the circuit court.)

TAKE NOTICE That all persons having or claiming to have any right, title or interest in or lien upon the real property described in the list of tax liens, No. ...., on file in the office of the clerk of the circuit court of .... county, dated ...., and hereinabove set forth, are hereby notified that the filing of such list of tax liens in the office of the clerk of the circuit court of .... county constitutes the commencement by said .... county of a special proceeding in the circuit court for .... county to foreclose the tax liens therein described by foreclosure proceeding in rem and that a notice of the pendency of such proceeding against each piece or parcel of land therein described was filed in the office of the clerk of the circuit court on .... (insert date). Such proceeding is brought against the real property herein described only and is to foreclose the tax liens described in such list. No personal judgment will be entered herein for such taxes, assessments or other legal charges or any part thereof.

TAKE FURTHER NOTICE That all persons having or claiming to have any right, title or interest in or lien upon the real property described in said list of tax liens are hereby notified that a certified copy of such list of tax liens has been posted in the office of the county treasurer of .... county and will remain posted for public inspection up to and including .... (*here insert date at least 8 weeks from the date of the first publication of this notice*) which date is hereby fixed as the last day for redemption.

TAKE FURTHER NOTICE That any person having or claiming to have any right, title or interest in or lien upon any such parcel may, on or before said .... (*insert redemption final date*), redeem such delinquent tax liens by paying to the county treasurer of .... county, the amount of all such unpaid tax liens and in addition thereto, all interest and penalties which have accrued on said unpaid tax liens, computed to and including the date of redemption, plus the reasonable costs that the county incurred to initiate the proceedings plus the person's share of the reasonable costs of publication under sub. (6).

.... County
By ....
County Treasurer

(7) RIGHT OF PERSON HAVING AN INTEREST IN OR LIEN UPON PARCELS DESCRIBED IN LIST OF TAX LIENS, TO ANSWER PETITION. (a) Every person having any right, title or interest in or lien upon any parcel described in such list of tax liens, may serve a duly verified answer upon the county treasurer for such county, setting forth in detail, the nature and amount of that person's interest and objecting to the proposed foreclosure upon one or more of the following grounds only:

1. That the lands in which such person is interested, described in such list of tax liens, were not liable to taxation, special assessment, special charge or special tax at the time the tax, special assessment, special charge or special tax for the nonpayment of which the tax lien arises, was levied.

2. That the tax, special assessment, special charge or special tax for the nonpayment of which said tax lien arises, was in fact paid before the last day of the redemption period provided by law.

3. That the tax lien is barred by the statute of limitations.

(b) No other defense to the petition of said county set forth in such tax list, shall be set up. Such answer must be filed in the office of the clerk of the circuit court and served upon the county

treasurer of such county within 30 days after the date hereinabove mentioned, as the last date for redemption.

(8) DUTY OF THE COURT TO ENTER JUDGMENT IN DEFAULT CASES. In the event of the failure to redeem or answer by any person having the right to redeem or answer as hereinabove provided, such person and all persons claiming under and through that person, from and after the date of the filing of the list of tax liens in the office of the clerk of the circuit court of the county, shall be forever barred and foreclosed of all right, title and interest and equity of redemption in and to the parcel described in such list of the tax liens, and upon filing of an affidavit of such default or failure of redemption by the county treasurer of such county, the court in which such list of tax liens is filed, shall render final judgment ordering and adjudging that the county is vested with an estate in fee simple absolute in such lands, subject, however, to all unpaid taxes and charges which are subsequent to the latest dated valid tax lien appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided by s. 75.14 (4) and all persons, both natural and artificial, including the state of Wisconsin, infants, incompetents, absentees and nonresidents who may have had any right, title, interest, claim, lien or equity of redemption in such lands, are forever barred and foreclosed of such right, title, interest, claim, lien or equity of redemption. Such judgment shall be deemed to be based on the latest dated valid tax lien appearing on the list of tax liens. No personal judgment shall be entered against any person having or claiming to have any right, title or interest in or lien upon said lands. Such judgment shall have the effect of the issuance of a tax deed or deeds and of judgment to bar former owners and quiet title thereon.

(9) FILING OF AFFIDAVIT. All affidavits of filing, publication, posting, mailing or other acts required by this section, shall be made by the person performing such acts and shall be filed in the office of the clerk of the circuit court of the county in which the property subject to such tax lien is situated and shall, together with all other documents required in this section, filed in such office, constitute and become part of the judgment roll in such foreclosure proceeding.

(10) CONTESTED ISSUES AND TRIAL THEREOF. If a duly verified answer is served upon the county treasurer within the period mentioned in sub. (7), the court shall hear and determine the issues raised by the petition and answer in the same manner and under the same rules as it hears and determines civil actions, except as in this section otherwise provided. Upon such trial, proof that such tax, special assessment, special charge or special tax, together with any interest or penalty which may have been due was paid, or that the property was not subject to tax, special assessment, special charge or special tax, or that such tax lien is barred by the statute of limitations, shall constitute a complete defense. Whenever an answer is interposed as herein provided, there shall be a severance of the proceeding as to any parcel or parcels of land in which such answering defendant has any right, title or interest as alleged in his or her answer, and as to the other parcels in such list, the proceeding shall proceed as provided in sub. (8).

(11) PREFERENCE OVER OTHER PROCEEDINGS AND ACTIONS. Any proceeding brought pursuant to this section shall be given preference over all other causes and actions not on trial and no such proceeding shall be referred.

(12) PRESUMPTIONS OF VALIDITY; GUARDIAN AD LITEM. (a) The county need not plead or prove the various steps, proceedings and notices for the assessment and levy of the taxes, assessments or other lawful charges against the lands set forth in the list of tax liens and all such taxes, assessments or other lawful charges and the lien thereof shall be presumed to be valid. A defendant alleging any jurisdictional defect or invalidity in the tax, special assessment, special charge or special tax, because of which said land was not liable to taxation, special assessment or other lawful charge, must particularly specify in the defendant's answer such jurisdictional defect or invalidity and must affirmatively establish such defense.

(b) This section shall apply to and be valid and effective with respect to all defendants even though one or more be infants, incompetents, absentees or nonresidents of the state of Wisconsin, provided that a guardian ad litem shall be appointed to serve for all persons known or unknown who have or may have an interest in the lands described in any list and who are or may be minors or incompetents at the date of filing such list. Such guardian ad litem may be appointed by the court without notice, and the fee for the services of the guardian ad litem as fixed by the court shall be paid by the county.

(13) JUDGMENT, CONTENTS. (a) Where, as to any parcel in the list of tax liens, an answer has been interposed by a party and the court shall determine in favor of such party upon such answer, the court shall make a final judgment divesting said parcel of the lien alleged to have accrued against same.

(b) In the event that the court shall determine that the issue raised by the answer of the defendant is without merit, a final judgment to such effect shall be entered ordering and adjudging that the county is vested with an estate in fee simple absolute in such lands subject, however, to all unpaid taxes and charges which are subsequent to the latest dated tax lien appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided by s. 75.14, and all persons, both natural and artificial, including the state of Wisconsin, infants, incompetents, absentees and nonresidents who may have had any right, title, interest, claim, lien or equity of redemption in such lands, are forever barred and foreclosed of such right, title, interest, claim, lien or equity of redemption. Such judgment shall be deemed to be based on the latest dated tax lien appearing on the list of tax liens. Such judgment shall have the effect of the issuance of a tax deed or deeds and of judgment to bar former owners and quiet title thereon.

(14) JUDGMENT TO BE RECORDED. A certified copy of the judgment of the court in both default and contested cases shall be recorded by the prevailing party in the office of the register of deeds of such county.

(14a) DAMAGES. Any person who was the owner of any right, title or interest in land which was lost by judgment of foreclosure as provided in this section may within 2 years from the date of entry of such judgment, in the cases hereinafter mentioned other than fraud and within 6 years in the case of fraud, commence an action in the circuit court against the county to recover the fair market value of the person's interest therein at the date of entry of said judgment of foreclosure in rem. If the court determines that such person's right, title and interest in said land was unjustly foreclosed and lost because said person's interest in such lands was not subject to taxation, special assessment, special charge or special tax at the time of the levy of the tax, assessment or charge, for nonpayment of which said lands were foreclosed, or that in fact such tax, special assessment, special charge or special tax was paid by said owner, or that the tax lien upon which the judgment of foreclosure in rem was based was barred by the statute of limitations, or if such person lost said property through fraud without fault on his or her part, the court shall determine the fair market value of said land or of said person's interest therein as hereinabove set forth. The fair market value shall not exceed the amount arrived at by dividing the assessed valuation of such lands in the year in which such judgment in rem was entered by the percentage ratio of real estate assessments prevailing for the taxing district in which the lands were located as set forth in the equalization for state tax purposes of the same year. The court shall award judgment to such plaintiff in such amount, together with reasonable attorney fees to be fixed by the court, and the plaintiff's costs and disbursements of such action. The amount awarded the plaintiff shall be reduced by the total amount due, as of the date of entry of such judgment, for all current taxes and upon all tax certificates held by the county on such date that the court shall find were valid. Upon payment of the judgment the county may charge back as a tax to any taxing district the amount which such district received from the county in payment of taxes and interest on said land

either by distribution of proceeds of sale thereof by the county or through other payment by the county to the extent that it exceeds the amount distributable to such district had the same been based upon the payment of the taxes and interest found by the court to be properly payable at the time of the entry of the judgment of foreclosure and applied in reduction of the amount awarded to the plaintiff hereunder.

History: 1977 c. 174; 1979 c. 34, 89; 1983 a. 52, 192, 302, 538; 1987 a. 27, 378; 1989 a. 330, 347; 1991 a. 39, 316; 1993 a. 301, 490; 1995 a. 224, 225, 417; 1997 a. 72, 250; 1999 a. 96.

Partially valid judgments under this section are not permissible. In Matter of Foreclosure of Tax Liens, 106 Wis. 2d 244, 316 N.W.2d 362 (1982).

Judgment under this section extinguishes all rights, titles, and interests in foreclosed property, including a claim based on adverse possession. Published notice was sufficient. Leciejewski v. Sedlak, 116 Wis. 2d 629, 342 N.W.2d 734 (1984).

The role of a guardian ad litem appointed under sub. (12) (b) is outlined. Waukesha County v. Tadych, 197 Wis. 2d 653, 541 N.W.2d 782 (Ct. App. 1995).

When a state's constitution and statutes are silent as to the distribution of excess proceeds received when a tax lien is foreclosed and the property is subsequently sold by the municipality, the municipality may constitutionally retain the proceeds as long as there has been notice sufficient to meet due process requirements. Due process does not require that notices state that should the tax lien be foreclosed and property sold the municipality may retain all the proceeds. Ritter v. Ross, 207 Wis. 2d 477, 558 N.W.2d 909 (Ct. App. 1996).

An income tax lien is extinguished by tax deed under 75.14 or by judgment under 75.521. 62 Atty. Gen. 234.

75.54 Reassessment of taxes by order of court. (1) In all actions in any court of this state in which either party seeks to avoid or set aside in whole or in part any assessment, tax or tax proceeding or reassessment, if the court is of the opinion, after holding a hearing, that, for any reason affecting the groundwork of the tax and all of the property in any taxation district, the assessment, tax or tax proceeding should be set aside, the court shall immediately stay all proceedings in the action and in all other actions affecting the assessment, tax or tax proceeding in the taxation district until a reassessment of the property in the taxation district can be made. The proper officers of the municipality constituting the taxation district or in which the district is located shall reassess the property in the taxation district in the manner specified in the statutes and levy upon the reassessed property the amount of taxes for the year in question. A reassessment under this subsection shall be made by the assessor of the taxation district or by the person the court appoints, and the assessment roll shall be submitted to and passed upon by the board of review in the manner and after the same notice as that which is given in the case of the original assessment.

(2) (a) Upon completion of the review by the board of review under sub. (1), the clerk of the town, village or city in which the reassessed district is situated shall extend upon the assessment roll the taxes lawfully levied upon and apportioned to the property described in the tax roll for the year in question. The tax roll and the tax extended on the tax roll under this section are a public record and are prima facie evidence in any legal proceeding of all of the following:

1. The amount of tax justly chargeable against the party seeking to set aside or avoid the original assessment, tax or tax proceeding and the amount of tax upon all lands respecting which the action was brought.

2. The amount of tax justly chargeable against every other person and all other lands included in the tax roll for the year in question.

(b) The reassessment and tax roll as corrected under this section shall be completed and filed with the clerk of the taxation district within 90 days from the date of entry of the order for reassessment unless the court upon motion and cause shown extends the time.

(3) (a) Upon completion and filing of the tax roll under sub. (2), notice of the reassessment shall be given by the clerk of the taxation district to the clerk of the court in which the action challenging the tax is pending. The clerk of court shall give notice of the reassessment to the attorneys for the parties to the action and to the attorneys in all other actions pending in which the validity of the original assessment may be involved.

(b) If any party to an action seeking to set aside or avoid the original assessment, tax or tax proceeding desires to contest the validity of a reassessment made under this section, that party shall, within 20 days after notice of the completion and filing of the reassessment and tax roll, file written objections to the reassessment or tax roll with the clerk of the court where the action is pending and serve a copy of those objections upon the attorney for the opposing party within 5 days after filing.

(c) Upon the filing and service of the written objections under par. (b), the court may direct that the issue raised by the objections be tried summarily by the court, which shall make an order sustaining or overruling the objections. If the objections are sustained, the court shall do one of the following:

1. Hold the reassessment or tax roll to be invalid and order subsequent reassessments of the tax in the manner and form provided in this section.

2. Determine and fix the amount of tax to be paid by the party or parties contesting the original assessment, tax or tax proceeding, and, for that purpose, the court may proceed to take any further evidence that is necessary to determine the tax.

(4) (a) If under sub. (3) the reassessment and tax roll are held by the court to be regular and valid or if no objections to the reassessment and tax roll are filed, the court shall make an order requiring the party or parties contesting the original assessment, tax or tax proceeding to pay into court, for the use and benefit of the party entitled thereto, the amount that by the reassessment the contesting party or parties justly ought to pay. If the amount of tax imposed upon the property of the contesting party by the reassessment, or by the subsequent determination and order of the court, equals or exceeds the amount imposed on the property by the original assessment and tax roll, the party or parties contesting the validity of the assessment shall be adjudged to pay the costs of the suit. Otherwise, upon complying with the order of the court, the contesting party or parties are entitled to judgment with costs.

(b) No judgment rendered in any action under this section affects the validity of any tax against any person other than the parties to the action or affects property that is not described in the complaint in the action.

(5) A stay of proceedings and reassessment in accordance with sub. (1) shall be ordered in all cases in which a tax that has been reassessed by any county, town or village board or common council for one or more years is adjudged uncollectible or void for any reason affecting the groundwork of the tax so as to require a reassessment in order to determine the amount properly due. If the reassessed tax has been levied in different years it is not necessary to make separate assessment rolls for each year. The valuations for each year may be placed opposite the description of the property on the assessment roll in columns headed with the figures of the year, so that the valuations for each year of reassessments are distinct from the valuations for other years entered upon the tax roll. All of the provisions of this section apply to the making and completion of, and to objections and further proceedings in respect to, an assessment under this subsection. An assessment under this subsection shall be treated with respect to each year that it purports to embrace as if it were a separate reassessment roll for that year.

(5g) The value of property reassessed under this section shall be fixed, as nearly as possible, as of the day as of which the original assessment was made, and the rules for determining the value of the property are those provided by law.

(5r) This section applies to all actions.

(6) In any action under this section in which the evidence enables the court to determine, with reasonable certainty, the amount of taxes that were justly chargeable against the lands involved in the action, the court, may proceed to judgment without staying proceedings or ordering a reassessment, if it finds that it is for the best interests of all parties to the action that it should do so.

History: 1991 a. 316; 1997 a. 253.

When an initial assessment was unchallenged but annual percentage increases were voided, the "groundwork" of the tax was unaffected under sub. (1). State ex rel. Kaskin v. Board of Review, 91 Wis. 2d 272, 282 N.W.2d 620 (Ct. App. 1979).

The trial court may determine taxes under either s. 74.74, 1985 stats. [now 74.39] or 75.54. Judicial determination of taxes is not an unconstitutional "levy". Fontana v. Village of Fontana−on−Geneva Lake, 107 Wis. 2d 226, 319 N.W.2d 900 (Ct. App. 1982), aff'd 111 Wis. 2d 215, 330 N.W.2d 211 (1983).

The court erred in ordering an area reassessment without holding a hearing under sub. (1). State ex rel. Hemker v. Huggett, 114 Wis. 2d 320, 338 N.W.2d 335 (Ct. App. 1983).

75.55 Application of section 75.54. Section 75.54 shall be construed to permit the reassessment, by or under the direction or authority of any city, of the property, real and personal, therein, which city, before and until the passage of these statutes, was authorized by law to make its own tax sales, tax certificates and tax deeds by its own proper officers. And in and for and in respect to every such city and the property, real and personal, therein the mayor and council thereof, the assessors thereof, the city clerk thereof, the board of equalization thereof, and the city treasurer thereof shall, as to any such city and the wards therein, respectively exercise all the powers and perform all the duties and proceed in the manner hereinbefore provided in respect to towns, villages and other cities, and exercise the powers and perform the duties devolved upon the board of supervisors, upon the assessors, upon the town clerk, upon the board of review and upon the town treasurer, respectively, for the reassessment of taxes and the collection thereof.

75.61 Actions related to tax certificates. (1) ONE−YEAR LIMITATION. Every action enumerated in s. 75.57, 1955 stats., and s. 66.0731, and every action or proceeding to set aside any inclusion of land in a tax certificate for the nonpayment of taxes, or to cancel any tax certificate, or to restrain the issuing of any tax certificate, or tax deed, for any error or defect going to the validity of the assessment, and affecting the groundwork of such tax, or on account of any void or defective special assessment, shall be commenced within one year from the date of issuance of the tax certificate under s. 74.57, and not thereafter. In every action brought to set aside any such inclusion of land in a tax certificate, or to cancel any tax certificate, or to restrain the issuing of any tax deed upon any ground whatever not going to the validity of the assessment and affecting the groundwork of such tax, special assessment, special charge or special tax, the plaintiff, if he or she shows himself or herself otherwise entitled to judgment, shall, before the entry thereof within a reasonable time to be fixed by the court, pay into the court for the county or city authorized to act under s. 74.87 holding the tax certificate the amount for which such land is delinquent, with interest on all such amounts at the rate of 8% per year from the times of payment until the money is paid into court; and in default of such payment within the time so fixed the defendant shall have judgment in the action. This provision as to the payment into court to be made by the plaintiff shall apply to all actions brought to cancel any tax deed, or to remove the cloud upon any title created by any tax certificate or tax deed where the action impeaches the tax deed or tax certificate upon any grounds whatever not affecting the groundwork of the tax for the nonpayment of which such deed or tax certificate was issued.

(2) TAX CERTIFICATES OF COUNTY, DISCOUNT ON. Whenever the county holds tax certificates upon real estate and the owner of said real estate or any person, firm, association, corporation or limited liability company holding a valid lien thereon shall claim the assessment of said real estate to be greater than the value that can ordinarily be obtained therefor at private sale, the respective town board, village board or city council where said real estate is situated may take proof under oath of the value of said real estate and make a finding thereon. Upon the filing of said finding with the county treasurer, the treasurer shall accept from said owner or lienholder the proper proportional tax on said real estate based upon the value so found, together with the proper charges, as in the case of redemption of tax certificates, shall cancel said tax certificate as it relates to that real estate, and shall give to said owner or lienholder a receipt for said tax. The difference between the tax as returned and the amount of such proportional tax, exclusive of charges, received by the county as a result of the compromise shall be charged to the town, village or city which returned the same and may be included by the county as a special charge in the next tax levy against such town, city or village.

History: 1979 c. 110; 1987 a. 378; 1993 a. 112; 1999 a. 150 s. 672.

75.62 Procedure in actions related to tax certificates. (1) CONDITIONAL PAYMENT. Whenever any action or special proceeding is hereafter commenced to set aside any inclusion of lands in a tax certificate for the nonpayment of taxes, or to cancel any tax certificate, or to restrain the issuing of any tax certificate or tax deed, or to set aside any tax, for any error or defect going to the validity of the assessment and affecting the groundwork of such tax, within 20 days after the commencement of such action the plaintiff in such action or special proceeding shall pay or cause to be paid to the county, town, city, or village officer entitled to receive the same, the amount of taxes, interest and charges levied against the said lands involved in such action, as a condition of maintaining said action.

(2) REASSESSMENT; PROCEEDING. If in said action or proceeding a reassessment is ordered, the court shall, upon the completion of said reassessment made in the manner required by statute, determine the amount which, according to said reassessment, the plaintiff ought justly to have paid upon the lands involved in said action or special proceeding.

(3) JUDGMENT. The plaintiff in such action or special proceeding shall be entitled to recover judgment for the amount, if any, the plaintiff so paid in excess of the amount the court shall finally determine the plaintiff ought to have paid on the lands involved in said action or proceeding, with interest from the date of such payment.

(4) PAYMENT OF JUDGMENT. Payment of any judgment so recovered by the plaintiff, shall be made forthwith by the treasurer of any such county, town, city or village, upon presentation of a certified copy thereof, without other or further order. The treasurer shall preserve said copy of said judgment as the treasurer's warrant for such payment and shall require the satisfaction of record of said judgment upon the making of such payment. The amount of any judgment so paid by the county treasurer shall be charged to the proper town, city or village and may be included by the county as a special charge against such town, city or village if such judgment shall be the result of an error or defect caused by said town, city or village or official thereof.

History: 1987 a. 378; 1989 a. 56; 1991 a. 316.

75.63 Ejectment as to public lands; conditions. (1) (a) No action may be commenced, maintained or prosecuted by or on behalf of the original owner or any person claiming title through or under the original owner to recover possession of or in any way involving the title to any lands conveyed to this state by any county, or attempted to be so conveyed, and sold by this state to any person until all of the following have been paid into the treasury of the county where the lands are located:

1. All taxes levied and assessed on the lands from the date of the sale of the lands by the state.

2. All legal charges for assessing and collecting the taxes described in subd. 1, and interest thereon at the rate of 8% per year from the January 15 in each year during which the the lands were assessed, commencing with the January following the first assessment after the sale.

3. All delinquent taxes levied upon and returned against the lands that were unpaid when the lands were conveyed or attempted to be conveyed to the state, together with interest on those delinquent taxes at the rate and in the manner described in subd. 2.

(b) All money paid into a county treasury under par. (a) shall be retained in the treasury pending the conclusion of the action described in par. (a) (intro.). The money shall be returned to the party paying or depositing the money if the party fails to maintain

the action. If the action is maintained, an amount equal to the delinquent taxes and interest described in par. (a) shall be retained by the county. The remainder shall be paid over to the person purchasing the lands from the state or that person's legal representatives.

(2) If the title to any such lands shall be adjudged to be in such original owner or party claiming title through or under the original owner they shall be deemed to be and shall be subject to taxation during the time the same were held by the state in like manner as if they had not been conveyed to or held by it, and the taxes for such period shall be levied and assessed upon such lands and collected in like manner as other taxes upon real estate. In all such actions the court shall enter an order requiring the plaintiff therein, within a reasonable time to be fixed in the order, to comply with this section by payment of the taxes, charges and interest as provided herein, and in default of compliance therewith the court shall dismiss the action. Nothing herein contained shall be construed as amending or repealing s. 75.26, 75.27 or 75.61.

History: 1973 c. 189; 1977 c. 29 s. 1646 (3); 1977 c. 273; 1979 c. 110 s. 60 (13); 1991 a. 316; 1997 a. 253.

75.64 No jurisdiction; issue of deed postponed; deposit. (1) In all cases to set aside any inclusion of lands in a tax certificate, or to cancel any tax certificate or to enjoin or restrain the issuing of a tax deed because the lands included in the certificate were not liable to taxation or because the taxes on the lands were paid prior to the inclusion in the tax certificate or because the lands have been redeemed according to law, the owner of, or any person interested in, the lands covered by the lien of the certificate may, at any time before final judgment is entered, deposit with the county clerk the amount for which the lands are delinquent, with interest from the date of the inclusion in the tax certificate to the date of the deposit and penalty as provided under s. 74.47, together with the legal charges on it.

(2) The clerk or treasurer shall retain such deposit until the final determination of the action, and if the certificate is vacated and set aside or if the issuing of the deed is permanently restrained, the money deposited shall, at the time of entry of judgment or at any later time, upon demand, be returned to the person depositing it. If final judgment is rendered in the action sustaining the validity of the inclusion of the land in a tax certificate, and of the tax certificate, the court shall compute the interest upon the certificate from the date of the deposit to the date of judgment and penalty as provided under s. 74.47 and add it to the costs and disbursements taxable in the action and to the amount of the deposit, and shall enter judgment against the plaintiff for the total amount, and no tax deed may be issued upon the certificate unless the plaintiff fails to pay to the clerk or treasurer, for the use of the owner of the certificate, the amount of the judgment within 20 days after its rendition, together with interest on it.

History: 1981 c. 167; 1987 a. 378.

75.67 Procedure in populous counties containing authorized city. (1) In counties having a population of 500,000 or more containing a city authorized to proceed under s. 74.87, whenever either such county or city acquires any property by tax deed or by quitclaim deed or by any other means, the issuance of other tax certificates and the redemption and cancellation thereof shall be as provided by this section.

(2) All tax certificates issued upon such property by such county or city on the same day or subsequent to the date of issuance of the certificate upon which such deed was acquired, and which certificates are owned by such county or city at the time of the acquisition of the property, shall be assigned to such county or city so owning such property. On any issuance of tax certificate subsequent to the acquisition of such property after the first Monday of August in any year, such county or city so owning such land shall be the exclusive recipient of the tax certificates. Any issuance of a tax certificate in violation of these provisions shall be null and void. It is the duty of the city and the county treasurer to give the other, as the case may be, written notice of the acquisition of such property within 24 hours, Sundays and holidays excluded, after such tax deed or other conveyance has been acquired; and upon receipt of such notice it is the duty of such treasurer, as the case may be, to make entry of such notice upon the treasurer's records.

(3) (a) Whenever such property has been so acquired, the city treasurer shall notify the county clerk and the county treasurer, or the county clerk shall notify the city treasurer, as the case may be, in writing thereof within 24 hours thereafter, Sundays and holidays excluded. The county treasurer or the city treasurer upon receipt of such notice shall forthwith charge the amount, without interest or penalties, of all city, county, state and metropolitan sewerage district current and delinquent taxes, all unpaid instalments of special assessments and other assessments, charges and tax certificates which are liens upon the land, and which are held by or due to such county or city, as the case may be, and upon which the time limitations of s. 75.20 have not expired, to a "tax deed in force" account, and such taxes, assessments and certificates shall thereby be considered as paid or redeemed and such taxes shall be marked paid or redeemed on the tax roll, as the case may be; thereafter the amounts thereof owned by or due to such county shall be charged back against such city and such amounts thereof owned or held by or due to such city shall be credited to such city in the next tax levy upon such city by the county.

(b) On or before October 1 of each year, the city treasurer and the county treasurer shall respectively furnish the other with an itemized statement of the amounts so charged by the treasurer, as the case may be, to the city's or county's "tax deed in force" account as a result of tax deeds taken by the city or county. The county clerk shall include an itemized statement of such amounts in the apportionment filed by the clerk. If any such tax deed is set aside, the city treasurer and the county treasurer shall respectively credit the other with the amounts so charged with respect to the deed set aside, and the amounts and entries by either treasurer with reference thereto, comprising said amounts shall be as though no charge had been made to a "tax deed in force" account; and the city treasurer and the county treasurer, respectively, shall, on or before October 1 of each year, advise the other of such credits due.

(c) In the event that such property is so acquired by such city while the county tax roll is in the possession of its city treasurer, the latter shall consider such taxes as paid and mark the tax roll accordingly, and furnish the county treasurer with a statement thereof upon a form provided by the county. The city treasurer shall return such records to the county treasurer with the delinquent county tax roll, and shall receive credit therefor the same as for delinquent taxes. The amount for which such credit is given shall be included in the amount to be charged back to such city in succeeding apportionment of county taxes.

History: 1985 a. 135; 1987 a. 27, 378.

75.69 Sale of tax delinquent real estate. (1) Except as provided in sub. (1m), no tax delinquent real estate acquired by a county may be sold unless the sale and appraised value of such real estate has first been advertised by publication of a class 3 notice, under ch. 985. Any county may accept the bid most advantageous to it but every bid less than the appraised value of the property shall be rejected. Any county is authorized to sell for an amount equal to or above the appraised value, without readvertising, any land previously advertised for sale.

(1m) (a) Subsection (1) does not apply to counties with a population of 500,000 or more.

(b) Notwithstanding sub. (1), any county may advertise the sale of any or all of its real estate that has been tax delinquent for at least 4 years by publishing a class 3 notice under ch. 985, indicating in which municipality or municipalities and in which ward or wards the real estate is located and the place and date for filing written bids but without listing specific parcels or appraised values for the parcels, if the county makes readily available in the courthouse a list of the parcels and the appraised value of each parcel.

(2) This section shall not apply to exchange of property under s. 59.69 (8), to withdrawal and sale of county forest lands, nor to the sale or exchange of lands to or between municipalities or to the state.

(3) This section shall apply to all tax delinquent lands regardless of the date of acquisition by the county.

(4) No tax delinquent real estate may be sold by a county under this section unless notice of such sale is mailed to the clerk of the municipality in which the real estate is located at least 3 weeks prior to the time of the sale. Any county may sell tax delinquent real estate by open or closed bid.

History: 1983 a. 344; 1987 a. 378; 1995 a. 201.

Counties may not transfer county owned mineral rights, acquired through nonpayment of taxes, to private persons without following the appraisal and public sale provisions of this section. 67 Atty. Gen. 236.

When a county proceeds under sub. (1), it can accept a bid it considers, in good faith, to be most advantageous to the county in view of the criteria in the bid notice. 70 Atty. Gen. 1.