

## CHAPTER 37, Laws of 1979

AN ACT to amend 32.06 (intro.); and to create 32.22 of the statutes, relating to immediate condemnation of blighted residential property.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1. Legislative intent.** (1) The legislature recognizes that when residential property is abandoned, the property is soon stripped of its most valuable components, and that the property thereafter exerts a blighting effect on the surrounding neighborhood.

(2) The legislature also recognizes that the condemnation procedures currently used by municipalities involve substantial delays, so that when the condemnation process is completed and title rests in the municipality, the abandoned residential property is usually worthless and must be demolished.

(3) The intent of this legislation is to establish an alternate procedure for the condemnation of abandoned residential property, which allows municipalities to obtain possession of the property as rapidly as possible, thus giving the municipalities an opportunity to prevent further deterioration of the property and preserve sufficient value in the property to make rehabilitation worthwhile. The alternative condemnation procedure will allow municipalities to maintain the quality of urban neighborhoods and to preserve valuable housing resources.

(4) The legislature further intends that this objective should be realized without depriving the owners of residential property of their property rights under the laws of this state, and without displacing the current occupants of residential property.

**SECTION 2.** 32.06 (intro.) of the statutes is amended to read:

**32.06 Condemnation procedure in other than transportation matters.** (intro.) The procedure in condemnation in all matters except acquisitions under s. 32.05 or 32.22, acquisitions under chapter 275, laws of 1931, as amended (Kline Law), acquisitions under ch. 157, and acquisitions under ch. 197, shall be as follows:

**SECTION 3.** 32.22 of the statutes is created to read:

**32.22 Special procedure for immediate condemnation.** (1) **DEFINITIONS.** In this section, unless the context requires otherwise:

(a) "Abandoned" means unoccupied for a period of 60 days or more, without any credible evidence that the owner intends to restore the property to significant use.

(b) "Municipality" means a city, a village, a housing authority created under ss. 66.40 to 66.404, a redevelopment authority created under s. 66.431 or a community development authority created under s. 66.4325.

(c) "Owner" means any person holding record title in the property.

(d) "Residential" means used principally for dwelling purposes.

(2) **APPLICABILITY.** Any municipality may use the procedures in this section for the condemnation of abandoned residential property, in lieu of the procedures in s. 32.06. Any 1st class city may use the procedures in this section for the condemnation of abandoned residential property, in lieu of the procedures in chapter 275, laws of 1931, as amended (Kline Law). The procedures in this section may only be used to acquire all of the property in a single parcel. Except as provided in sub. (12), the procedures in this

section may not be used by a municipality to acquire abandoned residential property for any purpose which requires the razing of the residential building.

(3) DETERMINATION OF NECESSITY OF TAKING. The necessity of taking shall be determined under s. 32.07.

(4) APPRAISAL; INFORMATION ON ABANDONMENT; WARRANT. (a) 1. The municipality shall prepare one or more appraisals of any abandoned residential property proposed to be acquired under this section. In preparing any appraisal under this paragraph, the appraiser shall confer with the owner or the owner's representative, if either can be located with reasonable diligence. The condemnor shall provide the owner with a full narrative appraisal upon which the petition under sub. (5) is based and a copy of any other appraisal made under this paragraph and at the same time shall inform the owner of his or her right to obtain an appraisal under subd. 2.

2. The owner may obtain an appraisal by a qualified appraiser of all property proposed to be acquired. The owner may submit the reasonable costs of the appraisal to the condemnor for payment, along with a copy of the owner's full narrative appraisal and evidence of the owner's payment for the appraisal within 60 days after the petition is filed under sub. (5). After receipt of the statement of appraisal costs, proof of payment and a copy of the appraisal, the municipality shall promptly reimburse the owner for the reasonable costs of the appraisal. The condemnor shall not be required to reimburse more than one owner under this subdivision for an appraisal relating to the condemnation under this section of any single parcel of real estate. If record title exists in more than one person, the person obtaining reimbursement under this subdivision shall provide a copy of the owner's appraisal to each other person who is an owner, as defined in sub. (1) (c).

(b) Before submitting the petition under sub. (5), the municipality shall ascertain that the property has been abandoned, as defined in sub. (1) (a), and shall note any other evidence of abandonment, such as unlocked doors, unlocked or broken windows and screens, lack of gas, electric or water service, absence of personal belongings in the building and any conditions which render the building untenantable.

(c) Prior to entry into any building proposed to be acquired under this section, the condemnor shall obtain a special condemnation warrant under this paragraph. To obtain a special condemnation warrant, the condemnor shall petition the circuit court for the county in which the property proposed to be acquired is located and shall mail a copy of the petition for a warrant under this paragraph by registered or certified mail to the owner's last-known address if any. The court shall issue the warrant on the condemnor's affidavit that the condemnor intends to condemn the property under this section; that the condemnor has mailed a copy of the petition for the warrant as required in this paragraph; and that an external inspection of the property indicates that it is abandoned.

(5) PETITION FOR CONDEMNATION PROCEEDINGS. (a) A municipality may present a verified petition to the circuit court for the county in which the property to be taken is located, for proceedings to take immediate possession of abandoned residential property and for proceedings to determine the necessity of taking, where such determination is required. The compensation offered for the property shall accompany the petition.

(b) The petition shall:

1. Describe the property and interests sought to be acquired.
2. Name all owners of record of the property.
3. State the authority of the municipality to condemn the property.
4. Describe the facts which indicate that property is abandoned.
5. Itemize the compensation offered for the property according to the items of damages under s. 32.09.
6. Describe the condemnor's plan to preserve the property pending rehabilitation.

7. Describe the condemnor's plan to rehabilitate the property and return it to the housing market.

(6) ACTION ON THE PETITION. (a) Immediately upon receipt of the petition, the circuit court shall examine the evidence presented by the municipality showing that the property is abandoned. If the circuit court finds that the property is abandoned, the court shall immediately direct the municipality to serve a copy of the petition and a notice on the owner under s. 801.12 (1), and to post a copy of the petition and notice on the main entrance to the residential building. The notice shall state that:

1. The owner may accept the compensation offered by filing a petition with the clerk of the court.

2. The owner may commence a court action to contest the right of condemnation as provided in sub. (8) within 40 days from completion of service of process.

3. The owner may appeal for greater compensation without prejudice to the right to use the compensation given by the award under sub. (10) within 2 years from the date of taking of the property.

4. Acceptance of the award is an absolute bar to an action to contest the right of condemnation under sub. (8).

(b) If any owner is a minor or incompetent person, a special guardian shall be appointed under s. 32.05 (4).

(7) POSSESSION AND PROTECTION OF THE PROPERTY. Within one working day after the municipality files proof of service of the petition and notice under s. 801.12 (1), the court shall grant the municipality immediate possession of the property. After obtaining the right to possession of the property, the municipality may take any action necessary to protect the property. The municipality shall post a notice on the main entrance to the building directing any occupant of the property to contact the municipality for information on relocation assistance.

(8) ACTION TO CONTEST RIGHT OF CONDEMNATION. (a) If an owner desires to contest the right of the condemnor to condemn the property described in the petition, for any reason other than that the amount of compensation offered is inadequate, the owner may within 40 days from the date of service and posting of the notice under sub. (6) commence an action in the circuit court of the county in which the property is located, naming the condemnor as defendant. If the action is based on the allegation that the condemned property is not abandoned as defined in sub. (1), the owner shall demonstrate by a preponderance of the credible evidence that the property is not abandoned.

(b) An action under this subsection shall be the only manner in which any issue other than the amount of just compensation, or other than proceedings to perfect title under ss. 32.11 and 32.12, may be raised pertaining to the condemnation of the property described in the petition. The trial of the issues raised by the pleadings in an action under this subsection shall be given precedence over all other actions in the circuit court then not actually on trial. If the action under this subsection is not commenced within the time limited, or if compensation offered for the condemned property is accepted, the owner or other person having any interest in the property shall be barred from raising any objection to the condemnor's right to condemn the property under this section in any manner.

(c) Nothing in this subsection limits in any respect the right to determine the necessity of taking under s. 32.07. Nothing in this subsection limits the right of the municipality to exercise control over the property under sub. (7).

(d) If the final judgment of the court is that the municipality is not authorized to condemn the property, the court shall award the owner a sum equal to actual damages, if any, caused by the municipality in exercising control over the property, in addition to the amounts provided in s. 32.28.

(9) **PAYMENT OF COMPENSATION; TRANSFER OF TITLE.** (a) If the owner accepts the compensation offered, or if the owner does not accept the compensation offered but no timely action is commenced under sub. (8), or if in an action under sub. (8) the circuit court holds that the municipality may condemn the property, the court shall order the title transferred to the municipality and the compensation paid to the owner.

(b) The clerk of court shall give notice of the order under par. (a) by certified mail, or by a class 3 notice under ch. 985, if any owner cannot be found, or any owner's address is unknown. The notice shall indicate that the owner may receive his or her proper share of the award by petition to and order of the court. The petition may be filed with the clerk of the court without fee.

(10) **ACTION TO CONTEST AMOUNT OF COMPENSATION.** Within 2 years after the date of taking under this section, an owner may appeal from the award using the procedures in s. 32.05 (9) to (13) without prejudice to the owner's right to use the compensation received under sub. (9) pending final determination under this subsection. For purposes of this subsection, the "date of taking" and the "date of evaluation" shall be the date of filing the petition in circuit court under sub. (5). For the purposes of this subsection, the "basic award" shall be the amount paid into the circuit court by the municipality under sub. (5). If the owner is successful on the appeal and the circuit court awards an amount higher than the basic award, the court shall award the owner the amounts provided in s. 32.28.

(11) **CLAIMS BY OCCUPANTS.** (a) If within 2 years after the petition is filed by the municipality, any person claims to have been a lawful occupant of the property condemned on the date the petition was filed, that individual may submit a request for relocation assistance under s. 32.25 to the municipality. The municipality shall, within 30 days after receipt of the request, either grant this request or apply to the circuit court for the county in which the property is located for a resolution of the claim.

(b) If an application is made to the circuit court under par. (a), the court shall conduct a hearing and determine whether the claimant had a lawful right to occupy the property and whether the claimant actually occupied the property on the date the petition was filed. If the court finds in favor of the claimant, the court shall direct the municipality to provide the relocation assistance and other aid available under s. 32.25 to a displaced person at the time of condemnation, unless the municipality abandons the proceedings and the claimant is able to resume occupancy of the property.

(c) No determination by a court under par. (b) in favor of a claimant affects the right of the municipality to condemn the property under this section in any case in which the owner accepts the compensation offered by the municipality or in which the claim under par. (a) is made after the latest date on which the owner could have filed an action under sub. (8).

(12) **DISPOSITION OF CONDEMNED PROPERTY.** (a) Nothing in this section requires the municipality to rehabilitate a residential building, if it appears at any time that total cost of rehabilitation, including structural repairs and alterations, exceeds 80% of the estimated fair market value of the building when rehabilitation is complete. If the municipality determines under this paragraph not to rehabilitate a residential building condemned under this section, the municipality shall sell the building to any nonprofit corporation organized under ch. 181 or any cooperative organized under ch. 185 which:

1. Offers to purchase the building within 60 days after the municipality determines not to rehabilitate the building for an amount which is not less than the amount paid by the municipality to acquire the building from the previous owner under this section;

2. Agrees to submit to the municipality its plans to rehabilitate the building within 3 months after the date on which the nonprofit corporation or cooperative acquires title to the building, to commence significant rehabilitation activities within 6 months after that

date and to complete the rehabilitation program and return the building to residential use within 18 months after that date; and

3. Agrees to execute a quitclaim deed returning the property to the municipality without compensation or reimbursement if the nonprofit corporation or cooperative fails to satisfy any of the requirements of subd. 2.

(b) If the municipality undertakes and completes the rehabilitation of any residential building acquired under this section, the municipality shall:

1. Sell, lease or otherwise convey the rehabilitated building to any person authorized to exercise condemnation powers under this section.

2. Sell the rehabilitated building to any person not authorized to exercise condemnation powers under this section. If the condemnor sells the building to any person not authorized to exercise condemnation powers under this section, the sale price shall be not less than fair market value of the rehabilitated building at the time of the sale.

(c) If a residential building is not rehabilitated or conveyed under par. (a) or (b), the municipality may use the property condemned under this section for any lawful purpose, including any purpose which requires razing of the building.

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