

1987 Assembly Bill 870

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## 1987 Wisconsin Act 378

AN ACT to repeal 24.70 (5), 60.34 (5), 61.26 (12), 62.09 (9) (g), 62.09 (9) (gm), 62.09 (9) (h), 66.54 (9) (d) and (e), 66.54 (11) (b) 6, 66.54 (13) and (14), 70.66, 70.665, 70.68 (1) to (4), 70.68 (5) (title), 70.68 (5) (c) and (d), 70.69, 70.70, 70.73 (2), 74.695 (title) and (6), 75.01 (3), 75.12 (5), 75.14 (3), 75.15, 75.17, 75.18, 75.20 (1), 75.21, 75.34, 75.35 (1) (a), 75.35 (2) (b), 75.35 (6), 75.38, 75.521 (16), 75.67 (4), 75.68, 75.70, 88.18 (2) (b), (c) and (d) and 88.43 (2) and (3); to renumber and amend 70.68 (5) (a) and (b), 74.695 (1) to (5), 75.11 (1), 75.20 (2), (9), (9a) and (10) and 75.35 (5); to consolidate, renumber and amend 75.35 (1) (intro.) and (b); to amend 20.865 (3) (a), (g) and (q), 20.913 (1) (b), 24.65, 24.68, 24.70 (6), 27.065 (8), (9) (f), (10) (b), (11) and (12) (a), 32.05 (7) (d), 32.06 (9) (b), 32.58 (3) (a) and (b), 32.61 (4) (b) and (c), 32.67 (2) (e), 32.70, 45.53 (3), (4) and (6), 59.01 (1), 59.07 (1) (a), 59.09 (4), 59.20 (1), 59.20 (15), 59.55 (3), 62.15 (9), 66.54 (6) (a) and (d) and (9) (c), 66.54 (10) (d) and (e) and (11) (b) 4 and 5, 66.54 (12), 66.604, 66.635 (1), 66.645 (1), 66.925 (1) (a), 66.98 (1), 70.01, 70.115, 70.25, 70.40 (1), 70.40 (3), 70.41 (1), 70.41 (3), 70.415 (1), 70.415 (3), 70.42 (1), 70.42 (3), 70.421 (1), 70.421 (3), 70.425 (2), 70.43 (3), 70.44 (1), 70.47 (12), 70.47 (14), 70.51 (1), 70.51 (1a), 70.511 (2) (a) and (b), 70.56 (2), 70.68 (title), 70.71 (1), 70.73 (1), 70.74, 70.86, 71.09 (7) (a) 7, 71.09 (11) (a) 7, 73.03 (31), 75.01 (title) and (1), 75.01 (4), 75.03, 75.04, 75.07, 75.09, 75.10, 75.12 (1) to (4), 75.13, 75.14 (1) and (2), 75.14 (4), 75.143 (2), 75.144 (2) (a) and (c) and (4), 75.145, 75.16, 75.19, 75.195 (2), 75.22, 75.23, 75.24, 75.25, 75.28 (1), 75.285, 75.32, 75.35 (title), 75.35 (2) (title) (a) and (c) to (e) and (3) and (4), 75.365 (1), (2) and (4), 75.37, 75.375, 75.39, 75.40, 75.41, 75.42, 75.43, 75.44, 75.45, 75.46, 75.48, 75.49, 75.50, 75.521 (1) (a) to (c) and (2) (a), 75.521 (3) (a) (intro.), 75.521 (3) (a) 2 and 3, 75.521 (3) (a) 4, 75.521 (3) (am) 5 and (c), 75.521 (3m) (b), 75.521 (5), 75.521 (7) (a) 1 and 2, 75.521 (10), 75.521 (12) (a), 75.521 (14a), 75.61, 75.62 (1), 75.64, 75.67 (1) to (3), 75.69 (1) and (3), 77.04 (2), 77.16 (6), 77.84 (2) (a) and (b) and (3), 77.89 (3), 79.10 (7m), 79.10 (9) (c), 88.42 (4), 88.43 (1), 88.82 (2) (b), 146.14 (2) and (5), 174.065 (3), 195.60 (3), 196.85 (3), 757.69 (3) (d), 799.01 (intro.), 823.06, 823.22 (4), 891.11 (1), 946.13 (2) (e) and 985.05 (1); to repeal and recreate 32.57 (2) (b), 70.65, 70.85, chapter 74 (exc. 74.695), 75.05, 75.06 and 75.36; and to create 70.323, 75.001, 75.002, subchapter XII (title) of chapter 779 and 799.01 (3m) of the statutes, relating to property tax collection laws.

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

PREFATORY NOTE [The NOTES shown in this act are not complete. Those NOTES which were rendered inaccurate by the adoption of amendments during the course of legislative deliberation have been deleted. In addition, new statutory text inserted by amendment does not have NOTES.] This bill revises and recodifies the property tax collection and distribution laws.

### *Background of committee study*

This bill was developed by the legislative council's special committee on property tax collection laws. The legislative council created the special committee in June 1986 and

directed the committee to revise and recodify chapter 74 of the statutes, and related statutes, regarding the collection of property taxes and the distribution of property taxes to local units of government. Specifically, the special committee was directed to: "(a) organize related provisions in a coherent pattern; (b) remove archaic and obsolete language; (c) resolve statutory ambiguities; and (d) make any revisions necessary to recognize the contemporary needs of local units of government and of the taxpayers".

The special committee met 15 times between July 1986 and December 1987 in the course of developing this bill.

### *History of law*

The property tax collection and settlement system is established by statute. Statutes and laws relating to the property tax collection and settlement system have been an important part of Wisconsin law since Wisconsin was a territory. Many of the current statutes relating to property tax collection can still be traced to the initial 1849 compilation of Wisconsin state statutes. Current law is thus an accumulation of past changes to the original statutes, frequently done with inadequate attention to the overall property tax collection and settlement system.

It appears that the property tax collection and settlement laws have not previously received a focused, comprehensive recodification such as that undertaken by the committee. The property tax collection laws were included in the general statutory revisions of 1858, 1878 and 1898. However, the principal purpose of these revisions was to incorporate into the text of the statutes those enactments of the legislature made since the last general revision, rather than to revise any one body of law, such as those relating to property tax collection and settlement.

Chapter 17, laws of 1921, established chapter 74 of the statutes as the chapter dealing with property tax collection and settlement procedures. However, chapter 17 consisted almost entirely of simple renumbering of previously existing statutes with little or no attention given to reorganizing or revising the law.

#### *Goal of committee*

The goal of the special committee, in its recodification of chapter 74, was to increase the efficiency of the property tax as a revenue source by reducing the cost, complexity and administrative burdens of collecting the tax. The bill addresses this goal by 2 means.

First, the bill responds to the first part of the special committee's charge by recodifying the property tax collection and settlement statutes so that they are more understandable to, and useable by, taxation district and county officials charged with administering them. The current collection and settlement statutes are exceedingly difficult to read and understand. In this bill, the statutes are recodified by grouping related parts of the law in one place, resolving ambiguities in the law, reconciling conflicts, codifying decisions of the supreme court and court of appeals and using modern drafting style. This aspect of recodification helps taxation district and county officials clearly understand their duties and reduces intergovernmental disagreements over the collection and settlement process.

Second, the bill responds to the remainder of the special committee's charge by making substantive changes in the law that increase the efficiency of the property tax collection and settlement system. The bill clearly articulates the application of chapter 74; provides a uniform, comprehensive tax payment schedule; simplifies the tax settlement process; centralizes and simplifies the process of collecting delinquencies; and provides a uniform method for making adjustments both with taxpayers and among taxing jurisdictions. In addition, numerous requirements formerly imposed on tax collection officials have been repealed, so as to reflect current practice and to facilitate the use of modern data-processing technology in the tax collection process.

A general description of the significant provisions of revised chapter 74 follows.

#### *Definitions*

Subchapter I of chapter 74 contains definitions of terms relating to the collection and settlement of property taxes. The goal of the committee in drafting these definitions is to state clearly to the local and county officials who administer the tax what their responsibilities are. For example, current law is frequently unclear concerning whether special assessments, special charges and other special taxes entered on the tax roll are to be treated any differently from general property taxes. The bill provides explicit definitions of these terms so

that taxation district and county officials can better understand how they are dealt with and accounted for in the collection and settlement process.

#### *Commencement of collection process*

Subchapter II of chapter 74 contains provisions relating to the delivery of the tax roll to the local treasurer for collection. The bill deletes archaic requirements in chapters 70 and 74, such as the requirement that the treasurer of the taxation district be given a warrant for the collection of taxes. In addition, this subchapter specifies the information which must be included on the tax bill which is sent to the taxpayer.

#### *Tax payment schedule*

[Text deleted; no longer accurate, due to amendments.]

#### *Who collects payments*

[Text deleted; no longer accurate, due to amendments.]

#### *Settlement*

[Text deleted; no longer accurate, due to amendments.]

#### *Adjustment*

Subchapter V of chapter 74 contains provisions clarifying the circumstances under which a taxpayer may make a claim to a taxation district for the recovery of property taxes. Under current law, there is confusion concerning the circumstances under which a taxpayer may make a claim to the local governing body of a taxation district for the recovery of property taxes if the claim for recovery is based upon a tangible error in the tax assessment process or, alternatively, if the claim is that the property was overassessed. The draft removes this confusion by clearly distinguishing the 2 procedures.

Subchapter V also revises current law to provide a uniform procedure under which a taxation district may "charge back" taxes refunded or rescinded to taxpayers to the other taxing jurisdictions which levied a portion of the refunded or rescinded tax. Under this procedure, a taxation district may be entitled to recover refunded or rescinded taxes from other taxing jurisdictions only if the equalized value of the taxation district would have been lower if the valuation represented by the refunded or rescinded taxes had not been included in the equalized value. The committee determined that if the equalized value of the taxation district was not affected by the refunded or rescinded taxes, recovery would not be appropriate because taxpayers residing in that taxation district paid no more of the tax levies of overlying taxing jurisdictions than would have been paid had no refund or rescission occurred.

#### *Return and collection of delinquent taxes*

[Text deleted; no longer accurate, due to amendments.]

#### *Issuance of tax certificate*

Subchapter VII of chapter 74 revises and consolidates procedures under which tax certificates are issued on tax delinquent property. Under this consolidated procedure, only the county will hold tax certificates: tax certificates may not be issued to any other person or governmental entity. There will be only one master tax certificate issued each year.

In addition, the period of time given a property owner to redeem property with regard to which a tax certificate has been issued is reduced from 3 years to 2 years.

#### *Miscellaneous*

Subchapter VIII of chapter 74 contains a number of miscellaneous provisions relating to the collection and settlement of property taxes, special assessments, special charges and special taxes. One new addition to current law contained in this subchapter is an appeal procedure under which a person may, under certain circumstances, appeal to the county for a determination that the only reason a payment of property taxes was not timely made was error or administrative delay by the U.S. postal service.

#### *Other statutory changes required for conformity with the bill*

The bill also contains numerous amendments to other chapters of the statutes, particularly chapters 70 and 75, which were necessary for consistency with the changes made in chapter 74. Extensive changes have been made to chapter 75, relat-

ing to the taking of title to, and sale of, land upon which a tax certificate has been issued. Most of these changes are necessary to reflect the provision of the bill that only counties will hold tax certificates for property upon which there are delinquent taxes, assessments or charges. Changes were also necessary to statutes concerning special assessments and drainage districts to reflect the committee's decision that only one tax certificate will be issued to the county.

*Provisions of chapter 74 not continued*

As part of the recodification of chapter 74, a substantial number of the provisions of current chapter 74 are not continued. Many of the discontinued provisions are expressly cited in the NOTES to the provisions of recodified chapter 74. In addition to the discontinued provisions mentioned in those NOTES, the conversion table at the end of this draft identifies other provisions of chapter 74 which are no longer continued.

*Initial applicability*

The bill first applies to taxes, assessments and charges contained in the tax roll which is delivered to the taxation district treasurer by the 3rd Monday in December 1989 for collection in 1990. This will allow local officials sufficient time to learn the provisions and prepare for the implementation of the new law.

For more specific information about this bill, see the EXPLANATORY NOTES which are included in the bill.

SECTION 1. 20.865 (3) (a), (g) and (q) of the statutes are amended to read:

20.865 (3) (a) *Property taxes.* A sum sufficient for the payment of property taxes to local governments under s. ~~74.57~~ 74.65.

(g) *Property taxes; program revenues.* From the appropriate program revenue and program revenue-service accounts, a sum sufficient to supplement the appropriations to state agencies for the payment of property taxes to local governments under s. ~~74.57~~ 74.65.

(q) *Property taxes; segregated revenues.* From the appropriate segregated funds, a sum sufficient to supplement the appropriations to state agencies for the payment of property taxes to local governments under s. ~~74.57~~ 74.65.

NOTE: Corrects cross-references.

SECTION 2. 20.913 (1) (b) of the statutes is amended to read:

20.913 (1) (b) *Excess tax payments.* Taxes collected in excess of lawful taxation, when claims therefor have been established as provided in ss. 71.10 (10) and (11), 71.11 (19), 71.12 (2), 72.24, ~~74.73~~ 74.35, 74.37, 76.13 (3), 76.38, 76.39, 78.19, 78.20, 78.75, 139.098, 139.12, 139.36, 139.39 (4) and 168.12 (2), (3) and (4).

NOTE: Corrects cross-references.

SECTION 3. 24.65 of the statutes, as affected by 1987 Wisconsin Act 76, is amended to read:

**24.65 Date when interest and principal become due.** The annual interest and instalments of principal of all state trust fund loans are payable into the state treasury on or before the date specified in s. 24.70 (4) ~~or (5)~~ or 24.71 (4).

NOTE: Corrects a cross-reference.

SECTION 4. 24.68 of the statutes is amended to read:

**24.68 Payment of state trust fund loans.** All the taxable property in any municipality which obtains a trust fund loan shall stand charged for the payment of the principal and interest on that loan. ~~The annual tax levied under s. 24.66 (5) shall be paid next after the state tax out of any moneys collected as taxes within the municipality.~~

NOTE: Revises s. 24.68 to reflect the new procedure in ss. 74.23, 74.25 and 74.27, under which taxes levied to pay state trust fund loans (as well as taxes for other purposes) are settled with the taxing jurisdiction in proportion to the amount of the total tax levy received by the last day of the month preceding the settlement date. [See NOTES to ss. 74.23, 74.25 and 74.27.] A separate settlement of those taxes is no longer made.

SECTION 5. 24.70 (5) of the statutes is repealed.

NOTE: This subsection is repealed as archaic. Municipalities are no longer authorized to extend the time for payment of property taxes under revised ch. 74.

SECTION 6. 24.70 (6) of the statutes is amended to read:

24.70 (6) **FAILURE TO MAKE PAYMENTS.** If the municipal treasurer fails to remit the amount due by the date specified under sub. (4) ~~or (5)~~, the board may file a certified statement of the amount delinquent with the department of administration. The department of administration shall collect the amount due, including any penalty, by deducting that amount from any state payments due the municipality, shall remit that amount to the state treasurer and shall notify the treasurer and the board of that action.

NOTE: Revises s. 24.70 (6) to be consistent with the repeal of s. 24.70 (5).

SECTION 7. 27.065 (8), (9) (f), (10) (b), (11) and (12) (a) of the statutes are amended to read:

27.065 (8) **CERTIFICATES.** Whenever any work or improvement chargeable in whole or in part to the property specially benefited has been completed and the same approved by the county board, the contractor or the county shall be entitled to the certificate therefor as to each parcel of land against which benefits shall have been assessed for the amount chargeable thereto. After the expiration of 9 months from the date of said certificate the same shall be conclusive evidence of the legality of all proceedings up to and inclusive of the issue thereof and it may be transferred by indorsement; provided, however, that this provision shall not affect any appeal from the final determination by the county board. If said certificates are not paid before October 15 in the year in which they are issued, the same may on or before the first day of November in each year, be filed with the county clerk, whose statement of special assessments which shall be paid in the next tax shall include an amount sufficient to pay said certificate with interest thereon at the rate provided in said certificate to the time when the county clerk is required to make return of delinquent taxes, and thereafter the same proceedings shall be had as in case of other taxes, ~~except that the moneys collected on account of such taxes and all the tax certificates issued to the county on the sale of the prop-~~

~~erty for such tax, if the same is returned delinquent, shall be delivered to the owner of the same on demand.~~

(9) (f) In each year after the issuing of said bonds, until all of them are paid, the county clerk, in his certification of the state and county tax and charges to the clerks of the cities, towns or villages wherein the land covered by said bonds is located, shall include sufficient of the special assessment on each such parcel of land to pay the annual instalment of the principal and interest of said special assessment, and this amount shall be extended on the tax roll for the year as a special tax on such property. Thereafter this tax shall be treated in all respects as any other county tax, and when collected the same shall be a special fund for the payment of such bonds and interest, and shall be used for no other purpose. The county treasurer shall, out of this special fund, pay the interest on and the principal of said bonds. Any bondholder or bondholders may redeem from any tax sale certificate, as fully as if owners of the land, under s. 75.01.

(10) (b) If within 90 days after the ~~commencement of the annual sale of lands for taxes~~ issuance of a tax certificate under s. 74.57, the amount to pay any instalment of principal or interest shall not have been collected, the owner or owners of at least one-third in par value of the bonds issued on any single improvement may proceed in his or their own names to collect the same by foreclosure thereof, and shall recover, in addition to the amount of said bonds and interest, all costs against the property of the party or parties in default.

(11) LIMITATION ON ACTION TO RESTRAIN TAX LEVY. Every action or proceeding to avoid any of the special assessments or taxes levied pursuant to the same, or to restrain the levy of such taxes, or the ~~sale~~ inclusion of lands in a tax certificate for the nonpayment of such taxes, shall be brought within 9 months from the end of the period of 30 days limited by the county improvement notice provided for in this section and not thereafter. This limitation shall cure all defects in the proceedings, and defects of power on the part of the officers making the assessment, except in cases where the lands are not liable to the assessment, or the county has no power to make any such assessment, or the amount of the assessment has been paid or a redemption made.

(12) (a) If in any action at law for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, or failure to observe any provisions of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment against property for any purpose, or to set aside any special assessment certificate, special improvement bond, ~~tax sale~~ or ~~tax sale~~ tax certificate based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or

for any cause, it shall stay all proceedings in such action until a new assessment thereof is made as provided hereinafter; thereupon the proper county authorities shall proceed forthwith to make a new assessment of benefits and damages against the property of the plaintiff as required by law in the case of the original assessment, and the plaintiff shall have the same right to appeal from the new assessment as he or his grantors would have had from the original assessment. If the validity of the new assessment is contested by the plaintiff, the court shall summarily try the matter and file an order sustaining or overruling the objection of the plaintiff. If the new assessments are held invalid, subsequent assessments may be made in like manner and similar proceedings resorted to to determine the validity of such assessments. When the amount to be assessed against the plaintiff's property is finally determined by an assessment of benefits and damages, which the court holds to be valid, or when an appeal is taken, the court shall make an order, requiring the plaintiff to pay into the court for the benefit of the parties entitled thereto, the amount which should be justly assessed against the property in question; upon compliance with said order, judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

NOTE: Amends portions of s. 27.065, relating to procedures for developing county parks and parkways, to reflect that under revised ch. 74, tax-delinquent land is no longer sold. Rather, a tax certificate is automatically issued to the county. Further, if the land subject to a certificate is not redeemed, the county will take tax title and may sell it, and use the proceeds to pay delinquent taxes, charges and assessments.

SECTION 8. 32.05 (7) (d) of the statutes is amended to read:

32.05 (7) (d) On or before said date of taking, a check, naming the parties in interest as payees, for the amount of the award less outstanding delinquent tax liens, proportionately allocated as in division in redemption under ss. ~~74.06, 74.32~~ 74.51 and 75.01 when necessary and less prorated taxes of the same year, if any, likewise proportionately allocated when necessary against the property taken, shall at the option of the condemnor be mailed by certified mail to the owner or one of the owners of record or be deposited with the clerk of the circuit court of the county for the benefit of the persons named in the award. The clerk shall give notice thereof by certified mail to such parties. The persons entitled thereto may receive their proper share of the award by petition to and order of the circuit court of the county. The petition shall be filed with the clerk of the court without fee.

NOTE: Corrects cross-references.

SECTION 9. 32.06 (9) (b) of the statutes is amended to read:

32.06 (9) (b) If condemnor does not elect to abandon the condemnation proceeding as provided in par. (a), it shall within 70 days after the date of filing of the commission's award, pay the amount of the award,

plus legal interest from the date of taking but less delinquent tax liens, proportionately allocated as in division in redemption under ss. ~~74.06, 74.32~~ 74.51 and 75.01 when necessary and less prorated taxes of the year of taking, if any, likewise proportionately allocated when necessary, to the owner and take and file his receipt therefor with the clerk of the circuit court, or at the option of the condemnor pay the same into the office of the clerk of the circuit court for the benefit of the parties having an interest of record on the date of evaluation in the property taken and give notice thereof by certified mail to such parties. If the condemnor pays the amount of said award within 14 days after the date of filing of the commission's award, no interest shall accrue. Title to the property taken shall vest in the condemnor upon the filing of such receipt or the making of such payment.

NOTE: Corrects cross-references.

SECTION 10. 32.57 (2) (b) of the statutes is repealed and recreated to read:

32.57 (2) (b) Included in a tax certificate previously issued under s. 74.57.

NOTE: Amends a portion of the law relating to alternate eminent domain procedures in 1st class cities. The above language prohibits the board of assessments from assessing benefits arising from the condemnation of property against any land subject to a tax certificate. The prohibition previously was expressed in terms of land "purchased by any county at tax sales as provided in s. 75.32".

SECTION 11. 32.58 (3) (a) and (b) of the statutes are amended to read:

32.58 (3) (a) The county treasurer, ~~acting~~ under s. ~~74.10 or 74.39~~, 74.57 or the city treasurer, if authorized to act under s. ~~74.03 (10)~~ 74.87, may ~~sell~~ include the owner's property in a tax certificate to collect the delinquent assessment, unless a special improvement bond under s. 32.67 is issued against the property. If the city has issued a special improvement bond against the owner's property, it may foreclose the property to collect the delinquent assessment. Even if only part of the property is within the benefit district and assessed benefits, the entire property may be sold or foreclosed to collect the delinquent assessment.

(b) The city may attach a lien on the owner's property as of the date the assessment is placed on the tax roll under sub. (2) (a). The lien has the same priority as liens under s. ~~74.04~~ 70.01.

NOTE: Paragraph (b) is revised to correct a cross-reference.

SECTION 12. 32.61 (4) (b) and (c) of the statutes are amended to read:

32.61 (4) (b) If the appellant pays any instalment or all of any benefits assessed prior to a judgment reducing the benefits assessed, the city shall refund the excess payment plus interest. If the ~~city sells~~ county issues a tax certificate on any property for any delinquent benefit assessment that is subsequently reduced by a judgment, the ~~city~~ county shall refund the amount reduced plus interest upon presentation of a

receipt showing the redemption of the property ~~from the tax sale~~ under s. 75.01.

(c) If the appellant pays any instalment or all of any benefits assessed or if the ~~city sells~~ county issues a tax certificate on any property for any delinquent benefit assessment prior to a judgment increasing the benefits assessed, the city shall enter the increase in benefits, plus interest on the increase in benefits from the date of the judgment entered on appeal, on the tax roll against the property. The city shall enter the revised assessment on the tax roll in one sum if the original benefit assessment was payable or paid in one sum, or shall add equal portions of the revised assessment to any subsequent benefit assessment instalments assessed against the property and enter the additions on the following tax rolls.

NOTE: Amends portions of s. 32.61 (4), relating to procedures for collecting eminent domain benefit assessments, to reflect that under revised ch. 74, tax-delinquent land is no longer sold. Rather, a tax certificate is automatically issued to the county.

SECTION 13. 32.67 (2) (e) of the statutes is amended to read:

32.67 (2) (e) If bonds are issued, the city comptroller shall place benefit assessments against property financing the bonds on the tax roll for the year of issuance or, if the city comptroller is unable to place the assessments on this tax roll, on the next year's tax roll. Placement of benefit assessments on the tax roll is only for the purpose of collection by the city treasurer at the same time as other taxes are collected. If the owner defaults on payment of the assessment ~~the property may not be sold for taxes~~ no tax certificate may be issued for the property under s. 74.57. The sole remedy for the enforcement of the payment of the bonds is the foreclosure action against the property under par. (d).

NOTE: See the NOTE to the next SECTION.

SECTION 14. 32.70 of the statutes is amended to read:

**32.70 Statute of limitations.** Unless the action commences within one year after January 1 following the date the assessment of benefits is placed on the tax roll under s. 32.58 (2), no person may contest the sale of property or issuance of any tax ~~sale~~ certificate for non-payment of an assessment. Commencing an action is subject to s. 32.61 and does not prevent the issuance or payment of any bonds issued under s. 32.67 or 32.69.

NOTE: This SECTION and the previous SECTION amend ss. 32.61 (4) (b) and 32.70, relating to procedures for collecting eminent domain benefit assessments, to reflect that under revised ch. 74 tax-delinquent land is no longer sold. Rather, a tax certificate is automatically issued to the county.

SECTION 15. 45.53 (3), (4) and (6) of the statutes are amended to read:

45.53 (3) Any person while in the military service of the United States or within 6 months after terminating such service, or his agent or attorney during such period, may petition a court of record in any county in which he owns property for relief under this section.

Upon filing of such petition the court shall make an order fixing the time of hearing thereon and requiring the giving of such notice of the hearing as it may deem reasonable. If after hearing the court shall find that the person on whose behalf the petition is made is, or within 6 months next preceding the filing of such petition was, in the military service of the United States and owns property within the county on which taxes have fallen due or will fall due, and that his ability to pay such taxes has been materially adversely affected by reason of his being in military service, the court shall enter an order determining that such person is entitled to relief under this section. When an order shall so determine it may further suspend proceedings for the collection of taxes on such property for a period not exceeding 6 months after termination of the military service of the person on whose behalf the petition is made, or for such time as may reasonably be necessary to complete the agreement provided in sub. (7) and thereafter ~~no sale of property or the property shall not be included in~~ tax certificates issued to enforce collection of taxes on such property shall be made, and all proceedings for that purpose shall be suspended, except under such terms as the court in such order may direct.

(4) Whenever any tax or assessment on real property, including all special assessments, is not paid when due, ~~the penalty of one percent per month as provided by s. 74.03 (4);~~ any interest or penalty under s. ~~74.80~~ 74.47 and the maximum limitation of 6% per year as provided by the soldiers' and sailors' civil relief act shall be waived for the purpose and upon the conditions specified in this section.

(6) The person owning or having an interest in any property in respect to which such order is made, his agent or attorney, may file with the county treasurer or with the city treasurer of cities authorized by law to sell lands for the nonpayment of taxes as to such taxes and assessments a certified copy of such order of suspension together with an affidavit in triplicate, sworn to by such person or his agent or attorney setting forth the name of the owner, the legal description of the property, the type of property, when acquired, volume and page number where such deed was duly recorded if acquired by deed and the name of the estate if acquired by descent, amount of delinquent taxes if any, and the names of the holders of any outstanding mortgage, lien or other encumbrance. Upon such filing the county treasurer or the city treasurer, as the case may be, shall file a first copy thereof in the office of the register of deeds of such county, the 2nd copy to be filed in the office of such the treasurer, as the case may be, wherein there will be marked, ~~in the tax sale record book or such other~~ record books as he may maintain, proper notation to the effect that a person in military service is the holder of the legal title thereto and has made application for special relief as herein provided, and the 3rd copy shall be immediately forwarded to the office of the clerk of the town, city or

village wherein the property is located, or if it be located in a city authorized to sell lands for nonpayment of its taxes to the tax commissioner thereof, who shall make an appropriate notation thereof on his records.

NOTE: Amends portions of the soldiers' and sailors' civil relief act to:

1. Reflect that tax-delinquent land is no longer sold under revised ch. 74.
2. Make a necessary cross-reference change.
3. Remove an incorrect reference to a nonexistent interest rate under repealed s. 74.03 (4).

SECTION 16. 59.01 (1) of the statutes is amended to read:

59.01 (1) STATUS. Each county in this state is a body corporate, empowered to sue and be sued, to acquire and hold, lease or rent real and personal estate for public uses or purposes, including lands ~~sold for taxes~~ acquired under ch. 75, to sell, lease and convey the same, including the authority to enter into leases or contracts with the state for a period of years for the uses and purposes specified in s. 23.09 (2) (d), to make such contracts and to do such other acts as are necessary and proper to the exercise of the powers and privileges granted and the performance of the legal duties charged upon it.

NOTE: Amends a statement of county powers to clarify that lands are no longer sold for delinquent taxes under revised ch. 74; rather, the tax certificate is issued to the county and, if the land is not redeemed, title is taken by the county.

SECTION 17. 59.07 (1) (a) of the statutes is amended to read:

59.07 (1) (a) *How acquired; purposes.* Take and hold land ~~sold for taxes~~ acquired under ch. 75 and acquire, lease or rent property, real and personal, for public uses or purposes of any nature, including without limitation acquisitions for county buildings, airports, parks, recreation, highways, dam sites in parks, parkways and playgrounds, flowages, sewage and waste disposal for county institutions, lime pits for operation under s. 59.873, equipment for clearing and draining land and controlling weeds for operation under s. 59.874, ambulances, acquisition and transfer of real property to the state for new collegiate institutions or research facilities, and for transfer to the state for state parks and for the uses and purposes specified in s. 23.09 (2) (d).

NOTE: Amends one of the powers of county boards. See the NOTE to s. 59.01 (1).

SECTION 18. 59.09 (4) of the statutes is amended to read:

59.09 (4) Said board may order public notices relating to tax ~~sales~~, redemption and other affairs of the county to be published in a newspaper printed in any other than the English language, to be designated in such order, whenever they shall deem it necessary for the better information of the inhabitants thereof, and it shall appear from the last previous census that one-fourth or more of the adult population of such county are of a nationality not speaking the English language,

and that there shall have been a newspaper published therein continuously for one year or more in the language spoken by such nationality; but all such notices shall also be published in a newspaper published in the English language as provided by law. The compensation for all such publications shall be paid by the county ordering the same, and shall be the same as that prescribed by law for publication in the English language; and no extra charge shall be allowed for translation in any case. No irregularity, mistake or informality in any such publication shall affect the validity or regularity of any tax sales, redemptions or other legal proceedings.

NOTE: Amends a provision relating to county publication of various matters to reflect that, under revised ch. 74, tax sales are no longer held (or noticed).

SECTION 19. 59.20 (1) of the statutes is amended to read:

59.20 (1) Receive all moneys from all sources belonging to the county, and all other moneys which by statute or county ordinance are directed to be paid to him, and, except in counties having a population of 500,000 or more in the case of the payment of delinquent property taxes or the redemption of tax sales, and the sale or assignment of property for taxes at or after tax sale land subject to a tax certificate, make out and deliver to the county clerk duplicate receipts therefor, and file in his office the duplicate receipts delivered to him by the county clerk for money received by him. In the case of the exception hereinabove provided, the county treasurer shall file a duplicate receipt in his office.

NOTE: Amends one of the duties of the county treasurer to reflect that, under revised ch. 74, land is no longer sold for delinquent taxes and counties will no longer be able to assign tax certificates.

SECTION 20. 59.20 (15) of the statutes is amended to read:

59.20 (15) Notify municipalities of payments made under ss. ~~74.03, 74.031~~ 74.29 and 79.10 in respect to property tax levies originally certified to the municipality for collection.

NOTE: Cross-reference change.

SECTION 21. 59.55 (3) of the statutes is amended to read:

59.55 (3) If a system of tract indices or of a system of chain of title indices is adopted by the county board of supervisors by resolution, and if the resolution provides that the index shall include an abstract or notation of any proceeding or proceedings pending, of any instruments or documents filed or entered in the office of the clerk of any court of the county, the circuit court or the register of probate or of any sales for taxes made by any officer of the county or any city in the county inclusion of property in a tax certificate issued under s. 74.57, and calls for a daily report to be made to the register of deeds of the county by any officer in charge of such proceedings, instruments or documents or tax sales, each office so called upon by the resolution to make a daily report, shall, upon the

close of business on each day report, in writing, under his or her hand, to the register of deeds, any and all proceedings, instruments and documents, and tax sales, certificates called for by the resolution, and the register shall, when required to maintain and keep up the system of indices, note all the proceedings, instruments and documents, and tax sales certificates upon the indices, in accordance with the resolution.

NOTE: Amends a provision relating to the tract indices of registers of deeds to reflect that tax-delinquent land is no longer sold; rather, under revised ch. 74, a tax certificate is issued to the county.

SECTION 22. 60.34 (5) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed.

NOTE: See the NOTE to s. 74.23.

SECTION 23. 61.26 (12) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed.

NOTE: See the NOTE to s. 74.23.

SECTION 24. 62.09 (9) (g) of the statutes is repealed.

NOTE: See the NOTE to s. 74.23.

SECTION 25. 62.09 (9) (gm) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed.

NOTE: See the NOTE to s. 74.23.

SECTION 26. 62.09 (9) (h) of the statutes is repealed.

NOTE: See the NOTE to s. 74.23.

SECTION 27. 62.15 (9) of the statutes is amended to read:

62.15 (9) GUARANTY. Any contract for doing public work may contain a provision requiring the contractor to keep the work done under such contract in good order or repair for not to exceed five years. The inclusion in the contract of any such provision shall not invalidate any special assessment or certificate thereof or tax sale certificate based thereon.

NOTE: Amends a provision governing public works in cities to reflect that tax-delinquent lands are no longer sold; rather, under revised ch. 74, a tax certificate is issued to the county.

SECTION 28. 66.54 (6) (a) and (d) and (9) (c) of the statutes are amended to read:

66.54 (6) (a) Whenever any public improvement has been made and has been accepted by the governing body of the municipality, it may cause to be issued to the contractor for such public improvement, a contractor's certificate as to each parcel of land against which special assessments have been levied for the unpaid balance of the amount chargeable thereto, describing each parcel. Such certificate shall be substantially in the following form:

\$ .... No. ....  
(name of municipality)  
CONTRACTOR'S CERTIFICATE  
FOR CONSTRUCTION OF ....  
(name of municipality)  
ISSUED PURSUANT TO  
SECTION 66.54 (6) WIS. STATS.

We, the undersigned officers of the (name of municipality), hereby certify that (name and address of con-

tractor) has performed the work of constructing .... in .... benefiting the following premises, to wit: (insert legal description) in the (name of municipality) .... County, Wisconsin, pursuant to a contract entered into by said (name of municipality) with the said (name of contractor), dated ....., and that .... entitled to the sum of .... dollars, being the unpaid balance due for said work chargeable to the property hereinabove described.

NOW, THEREFORE, If the said sum shall not be paid to the treasurer of (name of municipality) before the first day of December, next, the same shall be extended upon the tax roll of the (name of municipality) against the property above described as listed therein, and collected for, as provided by law.

This certificate is transferable by indorsement but such assignment or transfer shall be invalid unless the same shall be recorded in the office of the clerk of the (name of municipality) and the fact of such recording is indorsed on this certificate. THE HOLDER OF THIS CERTIFICATE SHALL HAVE NO CLAIM UPON THE (Name of municipality) IN ANY EVENT, EXCEPT FROM THE PROCEEDS OF THE SPECIAL ASSESSMENTS LEVIED FOR SAID WORK AGAINST THE ABOVE DESCRIBED LAND.

This certificate shall bear interest from its date to January 1 next succeeding. ~~This certificate may be exchanged for the tax sale certificate resulting from the sale of the above described lands for failure to pay the special assessment levied for the work hereinabove described.~~

Given under our hands at (name of municipality), this .... day of ....., 19 ....

.....  
(Mayor, President, Chairman)

Countersigned:

.....  
..... Clerk, (name of municipality)

ASSIGNMENT RECORD

Assigned by .... (Original Contractor) to .... (Name of Assignee) of .... (Address of Assignee) .... (Date and signature of clerk)

(d) If said certificates are not paid before December 1 in the year in which they are issued, the comptroller or clerk of the municipality shall thereupon include in the statement of special assessments to be placed in the next tax roll an amount sufficient to pay such certificates, with interest thereon from the date of such certificates to January 1 next succeeding, and thereafter the same proceedings shall be had as in the case of general property taxes, except as in this section otherwise provided. Such delinquent taxes shall be returned to the county treasurer in trust for collection and not for credit. All moneys collected by the municipal treasurer or by the county treasurer and remitted to the municipal treasurer on account of such special assessments ~~and all the tax certificates issued to the county on the sale of the property for such special assessment, if the same is returned delinquent,~~ shall be

delivered to the owner of the contractor's certificate on demand.

(9) (c) If any instalment of the aforesaid special assessment so entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection. ~~If the tax sale certificate resulting from the sale of said delinquent special assessment is bid in at the annual county tax sale by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into such special debt service fund for the redemption of such bonds.~~

NOTE: Amends s. 66.54 (6) (a) and (d) by deleting language which authorizes a person holding a contractor's certificate issued to pay for public improvements to obtain a tax certificate on delinquent payments of the special assessments imposed to pay the contractor's certificate. Under s. 74.57, only the county will hold tax certificates for delinquent payments of special assessments.

Amends s. 66.54 (9) (c) to be consistent with s. 74.57, under which only the county will hold tax certificates for delinquent special assessments.

SECTION 29. 66.54 (9) (d) and (e) of the statutes are repealed.

NOTE: Repeals s. 66.54 (9) (d) and (e) to reflect new s. 74.57, which provides that only the county takes the tax certificate and which prohibits the assignment of the tax certificate by the county.

SECTION 30. 66.54 (10) (d) and (e) and (11) (b) 4 and 5 of the statutes are amended to read:

66.54 (10) (d) Principal and interest collected on the underlying special assessments as well as interest collected on the delinquent special assessments and on delinquent tax certificates issued therefor shall be paid by the treasurer of the municipality out of the debt service fund created for the issue of such bonds to the registered holder thereof upon the presentation and surrender of the coupons due attached to said bonds. ~~Whenever such underlying special assessment is not paid and the same is struck off to the county at the tax sale, the registered owner of the bond may surrender his coupon to the county treasurer who thereupon shall assign to him the tax sale certificate underlying such special assessment.~~ If any instalment of the aforesaid special assessment entered in the tax roll shall not be paid to the municipal treasurer with the other taxes, it shall be returned to the county treasurer as delinquent in trust for collection.

(e) If the tax sale certificate resulting from the sale ~~of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale~~ by any person, firm or corporation other than the county, the county treasurer shall pay to the municipality, the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into a special debt service fund created for the payment of such special assessment B bonds.



(11) (b) 4. All collections of principal and interest on the underlying special assessments and instalments thereof, either before or after delinquency, ~~and on delinquent tax certificates issued therefor, and after issuance of a tax certificate under s. 74.57,~~ shall be placed by the municipal treasurer in a special debt service fund created, designated and identified for the issue of such bonds and used only for payment of said bonds and interest thereon to the holders of the bonds or coupons in accordance with the terms of the issue. Any surplus in the debt service fund, after all bonds and interest thereon are fully paid, shall be paid into the general fund.

5. If the tax sale certificate ~~resulting from the sale of said delinquent special assessment is bid in at the county tax sale, or redeemed subsequent to the tax sale~~ by any person other than the county, the county treasurer shall pay to the municipality the full amount received therefor, including interest, and the municipal treasurer shall thereupon pay the amount of such remittance into the special debt service fund created for the payment of such bonds.

NOTE: Amends ss. 66.54 (10) (d) and (e) and (11) (b) 4 and 5 to reflect new s. 74.57, under which only the county holds tax certificates.

SECTION 31. 66.54 (11) (b) 6 of the statutes is repealed.

NOTE: Repeals s. 66.54 (11) (b) 6 to reflect both the repeal of prior s. 74.031 and the creation of new s. 74.57, to provide that only counties hold tax certificates.

SECTION 32. 66.54 (12) of the statutes is amended to read:

66.54 (12) DISPOSITION OF SPECIAL ASSESSMENT PROCEEDS WHERE IMPROVEMENT PAID FOR OUT OF GENERAL FUND OR BONDS ISSUED UNDER SECTION 67.04. Whenever special assessments are levied for any public improvements, all amounts collected on such special assessments or received from the county shall be placed in the general fund of the municipality in case the payment for the improvement was made out of its general fund, or in the debt service fund required for the payment of bonds issued under s. 67.04 if such improvement was paid out of the proceeds thereof. Such special assessments, when delinquent, shall be returned in trust for collection and the municipality shall have the same rights as provided in sub. (9) (c); ~~(d) and (e).~~

NOTE: Reflects repeal of s. 66.54 (9) (d) and (e) by this bill.

SECTION 33. 66.54 (13) and (14) of the statutes are repealed.

NOTE: Repeals s. 66.54 (13) to reflect amended s. 75.01 (3), under which only one tax certificate is issued for property upon which general property taxes, special assessments, special charges and special taxes become delinquent. Delinquencies which occur after a tax certificate has been issued are added to that certificate. Therefore, there is no need to state that the lien of any one tax certificate is superior to the lien of another. Section 66.54 (14) is unnecessary because only counties may hold tax certificates under s. 74.57 and because amended s. 75.20 is applicable to all tax certificates.

SECTION 34. 66.604 of the statutes is amended to read:

**66.604 Lien of special assessment.** A special assessment levied under any authority whatsoever shall be a lien on the property against which it is levied on behalf of the municipality levying the same or the owner of any certificate, bond or other document issued by the municipality, evidencing ownership of any interest in such special assessment, from the date of the levy, to the same extent as a lien for a tax levied upon real property ~~and shall be accorded the same priorities provided in s. 66.54 (13).~~

NOTE: Reflects the repeal of s. 66.54 (13).

SECTION 35. 66.635 (1) of the statutes is amended to read:

66.635 (1) If in any action other than an action pursuant to s. 66.60 (12), for the recovery of damages arising from a failure to make a proper assessment of benefits and damages, as provided by law, or failure to observe any provision of law, or because of any act or defect in any proceeding in which benefits and damages are assessed, and in any action to set aside any special assessment, special assessment certificate, bond or note, ~~tax sale or tax sale tax certificate~~ based upon such special assessment, the court determines that such assessment is invalid by reason of a defective assessment of benefits and damages, or for any cause, it shall stay all proceedings, frame an issue therein and summarily try the same and determine the amount which the plaintiff justly ought to pay or which should be justly assessed against the property in question. Such amount shall be ordered to be paid into court for the benefit of the parties entitled thereto within a time to be fixed. Upon compliance with said order judgment shall be entered for the plaintiff with costs. If the plaintiff fails to comply with such order the action shall be dismissed with costs.

NOTE: Amends a provision relating to reassessment of invalid condemnation and public improvement assessments to reflect that tax-delinquent lands are no longer sold; rather, under revised ch. 74, a tax certificate is issued to the county.

SECTION 36. 66.645 (1) of the statutes is amended to read:

66.645 (1) The officers now authorized by law to collect and receive the same from individuals shall have full power to receive and collect all such special assessments in the same manner as the same are now collected from individuals, and in addition thereto such officers shall have power at the direction of the proper authorities of the city or village making such special assessments, upon the nonpayment of any such special assessments by any corporation, company, or individual mentioned in s. 66.64 within the time now limited by law for the payment of such special assessments by individuals, or in the case of a county, city, village, town, and school district, after the time now prescribed by law in the case of other claims, to institute and prosecute an action to collect the same in the name and at the cost of such city or village. A like action may be maintained by the owner or holder of

any special assessment certificate or improvement bond issued as aforesaid in his own name and at his own cost. In such action, when brought in the name of such city or village, it shall be sufficient to allege that the defendant is indebted upon a special assessment, specifying the amount due ~~and the date of the warrant issued for the collection of the same~~, and when brought by such owner or holder, to set up a copy of such certificate or bond, specify the amount due and when payable, and allege that the defendant is liable therefor. On the trial of such action, when brought in the name of the city or village, the production of the ~~proper warrant for the collection of such assessment together with the~~ tax roll or list showing the amount thereof; and when brought by such owner or holder, the production of such certificate or improvement bond, tax roll, or list showing the amount thereof ~~and warrant for its collection~~ shall be prima facie evidence of the correctness and validity of such assessment, certificate, or improvement bond and of the liability of the defendant for the amount thereof and interest thereon from the time the same became payable. Any judgment recovered in such action shall be collected in the manner now prescribed for the collection of judgments against such defendant.

NOTE: Reflects the discontinuation of the warrant.

SECTION 37. 66.925 (1) (a) of the statutes is amended to read:

66.925 (1) (a) Acquisition under ~~chs. 74 and ch. 75~~ of any property which would be eligible for conveyance under the program.

NOTE: Corrects a cross-reference.

SECTION 38. 66.98 (1) of the statutes is amended to read:

66.98 (1) Every weed commissioner shall carefully investigate concerning the existence of noxious weeds in the district; and if any person therein neglects to destroy any weeds as required by s. 66.96, the weed commissioner shall, after first giving 5 days' written notice by mail to the owner or occupant and in cities and villages without giving such written notice, destroy or cause all such weeds to be destroyed, in the manner deemed to be the most economical method, and for each day devoted to doing so the weed commissioner shall receive such compensation as is determined by the town board, village board or city council upon presenting to the proper treasurer the account therefor, verified by oath and approved by the appointing officer. Such account shall specify by separate items the amount chargeable to each piece of land, describing the same, and shall, after being paid by the treasurer, be filed with town, city or village clerk, who shall enter the amount chargeable to each tract of land in the next tax roll in a column headed "For the Destruction of Weeds;"; as a tax on the lands upon which such weeds were destroyed, which tax shall be collected ~~as other taxes are, or as taxes are collected on personal property pursuant to s. 74.11~~

under ch. 74, except in case of lands which are exempt from taxation in the usual way. A delinquent tax may be collected as is a delinquent real property tax under chs. 74 and 75 or as is a delinquent personal property tax under ch. 74. In case of railroad or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the town, city or village clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the lands specified, and the treasurer shall collect the same therefrom as prescribed in subch. I of ch. 76, and return the amount collected to the town, city or village from which such certificate was received. Any such commissioner may after written notice given as herein provided and in cities and villages without giving such written notice, enter upon any lands upon which any of the weeds mentioned in s. 66.96 are growing, and cut or otherwise destroy them, without being liable to an action for trespass or any other action for damages resulting from such entry and destruction, if reasonable care is exercised in the performance of the duty hereby imposed.

NOTE: Cross-reference change. Also, clarifies that delinquent weed destruction charges are collected in the same manner as delinquent general property taxes.

SECTION 39. 70.01 of the statutes is amended to read:

**70.01 General property taxes; upon whom levied.** Taxes shall be levied, under this chapter, upon all general property in this state ~~except as is exempted therefrom~~ property that is exempt from taxation. Real estate taxes and personal property taxes are deemed to be levied when the tax roll ~~on which they are extended in which they are included~~ has been delivered to the local treasurer with a warrant for collection under s. 74.03. When so levied such taxes ~~shall be~~ are a lien upon the property against which they are ~~assessed, charged.~~ That lien is superior to all other liens, and is effective as of January 1 in the year when the taxes are levied, except in the case. Liens of special assessments of benefits for local improvements ~~where the lien of such assessments shall be in force from the time as provided in s. 66.60 (15), and except that such special assessments in cities of the 1st class shall be in force as provided by the charter or general laws applicable to such the cities that make the special assessments.~~ In this chapter, unless the context requires otherwise, references to "this chapter" ~~shall do not include ss. 70.37 to 70.395.~~

NOTE: 1. Adds a reference to personal property taxes to the general statement of law relating to the time when taxes are deemed to be levied and to the lien that attaches to property against which taxes are levied. Thus, personal property taxes are deemed levied as of the time the tax roll is delivered to the taxation district treasurer, the taxes are a lien on the property against which they are levied and the lien is superior to all other liens. The lien priority provision should aid counties in collecting delinquent personal property taxes by clarifying the paramount nature of the tax.

2. Reflects the repeal of the requirement that a warrant, charging the treasurer with collection of taxes shown on the tax roll, accompany the roll. See the NOTE to s. 74.03. As revised, this section specifies that taxes are deemed to be levied at the time that the tax roll in which they are included is delivered to the local treasurer.

Other changes made in this section are editorial; no substantive change is intended.

SECTION 40. 70.115 of the statutes is amended to read:

**70.115 Taxation of real estate held by investment board.** All real estate owned or held by any of the funds invested by the investment board (other than the constitutional trust funds) shall be assessed and taxed in the same manner as privately owned real estate. Such taxes shall be paid out of the fund to which the lands belong or for whose benefit they are held. If such taxes are not paid, the real estate shall be subject to ~~tax sale inclusion in a tax certificate under s. 74.57~~ as are privately owned lands.

NOTE: Amends a provision relating to taxation of lands owned by the investment board to reflect that tax-delinquent lands are no longer sold; rather, under revised ch. 74, a tax certificate is issued to the county.

SECTION 41. 70.25 of the statutes is amended to read:

**70.25 Lands, described on rolls.** In all assessments and tax rolls, ~~and in all advertisements, certificates, papers, conveyances or proceedings for the assessment and collection of taxes, and in all related proceedings founded thereon, as well heretofore as hereafter,~~ any descriptions of land which shall indicate the land intended with ordinary and reasonable certainty and which would be sufficient between grantor and grantee in an ordinary conveyance ~~shall be~~ are sufficient; ~~nor shall any.~~ No description of land according to the United States survey ~~be deemed~~ is insufficient by reason of the omission of the word quarter or the figures or signs representing it in connection with the words or initial letters indicating any legal subdivision of lands according to government survey. Where a more complete description may not be practicable and the deed or a mortgage describing any piece of real property is recorded in the office of the register of deeds for the county, an abbreviated description including the volume and page where recorded, and the section, village or city where the property is situated, ~~shall be~~ is sufficient. Where a more complete description may not be practicable, and the piece of property is described in any certificate, order or judgment of a court of record in the county, an abbreviated description including the volume and page of the court record where recorded, and the section, village or city where the property is situated, ~~shall be~~ is sufficient. Descriptions in property tax bills shall be as provided under s. 74.09 (3) (a).

NOTE: For convenience, refers to a new provision relating to real property descriptions in tax bills. Other changes are editorial.

SECTION 42. 70.323 of the statutes is created to read:

**70.323 Assessment of divided parcel.** (1) DETERMINATION OF VALUE. (a) If a parcel of real property is divided, the owner of a divided parcel may request a valuation of the divided parcels. A request shall be in writing and submitted to the treasurer of the taxation district in which the property is located. If the taxation district treasurer is in possession of the tax roll, the treasurer shall make the requested valuation. If the tax roll has been returned under s. 74.43, the taxation district treasurer shall forward the request to the county treasurer, who shall make the requested valuation.

(b) The appropriate treasurer shall, with the assistance of the assessor of the taxation district, attribute to each new parcel its value for the year of division. The value of each new parcel shall represent a reasonable apportionment of the valuation of the original undivided parcel, and the total of the new valuations shall equal the valuation of the original undivided parcel on January 1 of that year. The value of a new parcel as determined under this subsection is the value of that property for purposes of s. 70.32 for the year of division.

(2) APPEAL. A determination under sub. (1) may be appealed by bringing an action in circuit court within 60 days after the determination is made. The court shall determine whether the value determined under sub. (1) represents a reasonable apportionment of the valuation of the original undivided parcel on January 1 of that year. If the court determines that the value does not represent a reasonable apportionment, the court shall redetermine the parcels' values, the total of which shall equal the valuation of the original undivided parcel on January 1 of that year.

(3) LIEN EXTINGUISHED. Payment of all real estate taxes based on the value determined under sub. (1) or (2) extinguishes the lien against the parcel created under s. 70.01.

(4) COOPERATION OF ASSESSOR. The assessor of the taxation district shall assist the treasurer of the taxation district or of the county under sub. (1).

(5) NOT APPLICABLE WHERE WRITTEN AGREEMENT. This section does not apply if there is a written agreement providing for the payment of real property taxes on the divided parcels in the year of division.

NOTE: New. In most situations, the parties will handle the issue of payment of taxes, assessments and charges on divided property by written agreement. The creation of this section reflects that, when the issue is not dealt with by agreement, taxation district and county treasurers are often called upon to resolve the issue as it relates to real property taxes. This section gives authority to treasurers, when requested, to determine new valuations for the divided parcels and permits appeal of the determination.

SECTION 43. 70.40 (1) of the statutes is amended to read:

70.40 (1) Every person operating an iron ore concentrates dock in this state shall on or before ~~December 15~~ January 31 of each year pay an annual occupational tax equal to 5 cents per ton upon all iron

ore concentrates handled by or over the dock during the year ending on the ~~preceding~~ December 31 which is 2 years prior to the payment due date. In this section "dock" means a wharf or platform for the loading or unloading of materials to or from ships.

NOTE: See the NOTE to the next SECTION.

SECTION 44. 70.40 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

70.40 (3) The tax provided for in this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town, village or city clerk and shall be entered by the clerk on the tax roll. ~~The tax shall be paid and collected as taxes on personal property are paid and collected in the town, city or village where the dock is situated, is a special tax under ch. 74~~ and shall be deductible from gross income for income tax purposes as personal property taxes are deductible by corporations in computing net income under s. 71.02 (1) (c) (intro.). Taxes collected under this section shall be divided as follows: 30% to the state general fund and 70% to the town, city or village in which the taxes are collected, which shall be remitted and accounted for in the same manner as the state and county taxes collected from property are remitted and paid.

NOTE: This SECTION and the previous SECTION revise s. 70.40 (1) and (3) to make the date upon which taxes under this section are due January 31, rather than December 15. Under new s. 74.11, January 31 is the date upon which all special taxes placed on the tax roll for collection are due. New s. 74.01 creates a definition of "special tax", which will encompass a tax imposed under this section.

Language in sub. (3) directing that the tax be collected as personal property taxes are collected has been deleted as surplusage. Subsection (5) of the existing statute, which is not affected by this bill, clearly directs that the laws relating to collection of personal property taxes apply to the collection of this occupational tax.

SECTION 45. 70.41 (1) of the statutes is amended to read:

70.41 (1) GRAIN TAX. Every person operating a grain elevator or warehouse in this state, except elevators and warehouses on farms for the storage of grain raised by the owner thereof, shall on or before ~~December fifteenth~~ January 31 of each year pay an annual occupation tax of a sum equal to one-half mill per bushel upon all wheat and flax and one-fourth mill per bushel upon all other grain received in or handled by such elevator or warehouse during the ~~preceding~~ year ending on the December 31 which is 2 years prior to the payment due date; and such grain shall be exempt from all taxation, either state or municipal.

NOTE: See the NOTE to the next SECTION.

SECTION 46. 70.41 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

70.41 (3) ASSESSMENT AND COLLECTION OF TAX ON GRAIN STORAGE. The tax under this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town,

village or city clerk and shall be entered by the clerk on the tax roll. ~~The tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the taxing district where the elevator or warehouse is situated is a special tax under ch. 74.~~

NOTE: This SECTION and the previous SECTION revise s. 70.41 (1) and (3) to make the date upon which taxes under this section are due January 31, rather than December 15. Under new s. 74.11, January 31 is the date upon which all special taxes placed on the tax roll for collection are due. New s. 74.01 creates a definition of "special tax", which will encompass a tax imposed under this section.

Language in sub. (3) directing that the tax be collected as personal property taxes are collected has been deleted as surplusage. Subsection (5) of the existing statute, which is not affected by this bill, clearly directs that the laws relating to collection of personal property taxes apply to the collection of this occupational tax.

SECTION 47. 70.415 (1) of the statutes is amended to read:

70.415 (1) Except as provided in sub. (6), every person operating a scrap iron or scrap steel dock or other steel dock in this state, shall on or before ~~December 15~~ January 31 of each year pay an annual occupational tax equal to 3 1/2 cents per ton upon all scrap iron or scrap steel, and 10 cents per ton upon all other steel, handled by or over such dock during the ~~preceding~~ year ending on the December 31 which is 2 years prior to the payment due date, and such scrap iron, scrap steel and other steel shall be exempt from all other state or municipal taxation. If there is any processing or working of the said steel other than scrap iron or scrap steel, it shall be subject to taxation under s. 70.34 in the same manner as all personal property is assessed.

NOTE: See the NOTE to the next SECTION.

SECTION 48. 70.415 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

70.415 (3) The tax provided for in this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town, village or city clerk and shall be entered by the clerk on the tax roll. ~~The tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the town, city or village where the scrap iron or scrap steel dock or other steel dock is situated, is a special tax under ch. 74~~ and the entire proceeds of the tax shall be retained by the town, city or village. The tax when paid shall be deductible from gross income for income tax purposes as personal property taxes are deductible by corporations in computing net income under s. 71.02 (1) (c) (intro.).

NOTE: This SECTION and the previous SECTION revise s. 70.415 (1) and (3) to make the date upon which taxes under this section are due January 31, rather than December 15. Under new s. 74.11, January 31 is the date upon which all special taxes placed on the tax roll for collection are due. New s. 74.01 creates a definition of "special tax", which will encompass a tax imposed under this section.

Language in sub. (3) directing that the tax be collected as personal property taxes are collected has been deleted as surplusage. Subsection (5) of the existing statute, which is not affected by this bill, clearly directs that the laws relating to collection of personal property taxes apply to the collection of this occupational tax.

SECTION 49. 70.42 (1) of the statutes is amended to read:

70.42 (1) Every person operating a coal dock in this state, other than a dock used solely in connection with an industry and handling no coal except that consumed by the industry, shall on or before ~~December 15~~ January 31 of each year pay an annual occupation tax of a sum equal to 5 cents per ton upon all bituminous and subbituminous coal, coke and briquettes, and upon all petroleum carbon, coke and briquettes, and 7 cents per ton upon all anthracite coal, coke and briquettes handled by or over such coal dock, during the preceding year ending April 30 except that as of December 15, 1979, such tax shall apply to the year ending on the ~~preceding~~ December 31 which is 2 years prior to the payment due date. Such coal, petroleum carbon, coke and briquettes shall be exempt from all other taxation, either state or municipal.

NOTE: See the NOTE to the next SECTION.

SECTION 50. 70.42 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

70.42 (3) The tax provided for in this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town, village or city clerk and shall be entered by the clerk on the tax roll. ~~The tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the taxing district where the coal dock is situated, is a special tax under ch. 74 and when paid shall be deductible from gross income for income tax purposes as personal property taxes are deductible by corporations in computing net income under s. 71.02 (1) (c) (intro.).~~ Taxes collected under this section shall be divided as follows: 10% to the state, 20% to the county, and 70% to the town, city or village in which the taxes are collected, which shall be remitted and accounted for in the same manner as the state and county taxes collected from property are remitted and paid.

NOTE: This SECTION and the previous SECTION revise s. 70.42 (1) and (3) to make the date upon which taxes under this section are due January 31, rather than December 15. Under new s. 74.11, January 31 is the date upon which all special taxes placed on the tax roll for collection are due. New s. 74.01 creates a definition of "special tax", which will encompass a tax imposed under this section.

Language in sub. (3) directing that the tax be collected as personal property taxes are collected has been deleted as surplusage. Subsection (5) of the existing statute, which is not affected by this bill, clearly directs that the laws relating to collection of personal property taxes apply to the collection of this occupational tax.

SECTION 51. 70.421 (1) of the statutes is amended to read:

70.421 (1) Every person operating a crude oil refinery in this state, shall on or before ~~December 15~~ January 31 of each year pay an annual occupation tax of a sum equal to 5 cents per ton upon all crude oil handled during the preceding year ending April 30 except that as of December 15, 1979, such tax shall apply to the year ending the ~~preceding~~ December 31 which is 2 years prior to the payment due date. All such crude oil so handled and all petroleum products refined therefrom, in the possession of the refinery, shall be exempt from all personal property taxation, either state or municipal.

NOTE: See the NOTE to the next SECTION.

SECTION 52. 70.421 (3) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

70.421 (3) The tax provided for shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by such assessor to the town, village or city clerk and shall be entered by said clerk on the tax roll. Such tax shall be paid and collected in the taxing district where such refinery is situated, and shall be deductible from gross income for income tax purposes in the same manner as personal property taxes are deductible by corporations in computing net income under s. 71.02 (1) (c) (intro.). ~~Such tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the taxing district where such refinery is situated, is a special tax under ch. 74 and the entire proceeds of such tax shall be retained by such taxing district.~~

NOTE: The previous SECTION and this SECTION revise s. 70.421 (1) and (3) to make the date upon which taxes under this section are due January 31, rather than December 15. Under new s. 74.11, January 31 is the date upon which all special taxes placed on the tax roll for collection are due. New s. 74.01 creates a definition of "special tax", which will encompass a tax imposed under this section.

Language in sub. (3) directing that the tax be collected as personal property taxes are collected has been deleted as surplusage. Subsection (5) of the existing statute, which is not affected by this bill, clearly directs that the laws relating to collection of personal property taxes apply to the collection of this occupational tax.

SECTION 53. 70.425 (2) of the statutes is amended to read:

70.425 (2) The occupational tax herein provided shall be assessed to the owner or person in possession of such mink by the assessor. The assessor shall enter on the assessment roll the name of the person to whom assessed and the number of farms in the district. The clerk of the taxation district shall compute the tax and enter it on the tax roll. ~~Such a tax shall be collected in the same manner as taxes on personal property are collected is a special tax under ch. 74.~~ The money so collected shall be paid into the state treasury and shall be used by the department of agriculture, trade and consumer protection under s. 95.15.

NOTE: Revises s. 70.425 (2) to clarify that the occupational tax on mink is collected as a special tax. Under new s. 74.11, January 31 is the date upon which all special taxes placed on the tax roll for collection are due. New s. 74.01 creates a defini-

tion of "special tax", which will encompass a tax imposed under this section.

Language in sub. (2) directing that the tax be collected as personal property taxes are collected has been deleted as surplusage. Subsection (4) of the existing statute, which is not affected by this draft, clearly directs that the laws relating to collection of personal property taxes apply to the collection of this occupational tax.

SECTION 54. 70.43 (3) of the statutes is amended to read:

70.43 (3) The dollar amount of the adjustment determined in the correction under sub. (2) shall be referred to the board of review and, if certified by that board, shall be entered in a separate section of the current assessment roll, as prescribed by the department of revenue, and shall be used to determine the amount of additional taxes to be collected or taxes to be refunded. The dollar amount of the adjustment may be appealed to the board of review in the same manner as other assessments. The taxes to be collected or refunded shall be determined on the basis of the net tax rate of the previous year, taking into account credits under s. 79.10. ~~The additional tax or credit taxes to be collected or refunded shall not be shared with or charged back to other taxing jurisdictions and shall be reflected on the tax roll in the same manner as omitted property under s. 70.44, but any such adjustment may not be carried forward to future years.~~

NOTE: Revises s. 70.43 (3) to state clearly that amounts of additional taxes collected or amounts of taxes refunded as a result of corrections made under this section are retained, or paid out, solely by the taxation district.

SECTION 55. 70.44 (1) of the statutes is amended to read:

70.44 (1) Real or personal property omitted from assessment in any of the § 2 next previous years, unless previously reassessed for the same year or years, shall be entered once additionally for each previous year of such omission, designating each such additional entry as omitted for the year 19.... (giving year of omission) and affixing a just valuation to each entry for a former year as the same should then have been assessed according to his best judgment, and taxes shall be apportioned, using the net tax rate as provided in s. 70.43, and collected on the tax roll for such entry. This section shall not apply to manufacturing property assessed by the department of revenue under s. 70.995.

NOTE: Revises s. 70.44 (1) to authorize taxation of property omitted from assessment for up to 2 prior years, rather than for up to 5 prior years, for purposes of administrative convenience.

SECTION 56. 70.47 (12) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

70.47 (12) NOTICE OF DECISION. Prior to final adjournment, the board of review shall provide the objector, or the appropriate party under sub. (10), notice by personal delivery or by mail, return receipt required, of the amount of the assessment as finalized by the board and an explanation of appeal rights and procedures under sub. (14) and ss. 70.85 ~~and 74.73,~~ 74.35 and 74.37. Upon delivering or mailing the

notice under this subsection, the clerk of the board of review shall prepare an affidavit specifying the date when that notice was delivered or mailed.

NOTE: Corrects cross-references.

SECTION 57. 70.47 (14) of the statutes is amended to read:

70.47 (14) TAX PAYMENTS. In the event the board of review has not completed its review or heard an objection to an assessment on real or personal property prior to the date the taxes predicated upon such assessment are due, or in the event there is an appeal as provided in sub. (13) and s. ~~74.73(4)~~ 74.37 from the correction of the board of review to the court, the time for payment of such taxes as levied is the same as provided in ch. 74 and if not paid in the time prescribed, such taxes are delinquent and subject to the same provisions as other delinquent taxes.

NOTE: Corrects a cross-reference.

SECTION 58. 70.51 (1) of the statutes is amended to read:

70.51 (1) The board of review in all 1st class cities, after they shall have examined, corrected and completed the assessment roll of said city and not later than the first Monday in November, shall deliver the same to the tax commissioner, who shall thereupon reexamine and perfect the same and make out therefrom a complete tax roll in the manner and form provided by law. All laws applicable to any such city relating to the making of such tax rolls shall apply to the making of the tax roll by said tax commissioner, except that the work of making said rolls shall be performed by the assessors and such other employes in the tax commissioner's office as the tax commissioner shall designate. After the completion of said tax roll in the manner provided by law, the tax commissioner shall ~~annex a warrant in the form prescribed by law and signed by the tax commissioner and~~ deliver the tax roll ~~and warrant~~ to the city treasurer of such city on the 3rd Monday of December in each year.

NOTE: Reflects the discontinuation of the warrant.

SECTION 59. 70.51 (1a) of the statutes is amended to read:

70.51 (1a) If the board of review has not completed its work within the time limited by the first Monday in November, it shall nevertheless deliver the assessment roll to the tax commissioner as therein required, and the tax commissioner shall thereupon perfect the same as though the board of review had fully completed its work thereon. In any case wherein the board of review alters the assessment after the first Monday of November and before the treasurer is required to make the return of delinquent taxes, the assessment roll and the tax roll may be corrected accordingly in the manner provided in s. ~~70.73(2)~~ 74.05, except that the consent of the treasurer shall not be required.

NOTE: Corrects a cross-reference.

SECTION 60. 70.511 (2) (a) and (b) of the statutes are amended to read:

70.511 (2) (a) If the reviewing authority has not made a determination prior to the time of the tax levy with respect to a particular objection to value the amount, valuation or taxability of property, the tax levy on the property or person shall be based on the contested assessed value of the property. A tax bill shall be sent to, and paid by, the person subject to the tax levy as though there had been no objection filed, except that the payment shall be considered to be made under protest. The entire tax bill shall be paid when due under s. 74.11 or 74.12 even though the reviewing authority has reduced the assessment prior to the time for full payment of the tax billed.

(b) If the reviewing authority reduces the value of the property in question, the taxpayer may file a claim for refund of taxes resulting from the reduction in value. ~~The~~ If claim for refund ~~shall be~~ is filed with the clerk of the municipality on or before the November 1. ~~The following the decision of the reviewing authority,~~ the claim shall be payable to the taxpayer from the municipality no later than January 31 of the succeeding year. A claim filed after November 1 shall be paid to the taxpayer by the municipality no later than the 2nd January 31 after the claim is filed. Interest on the claim at the rate of 0.8% per month shall be paid to the taxpayer when the claim is paid ~~or shall be credited against the taxpayer's next property tax bill.~~ If the taxpayer requests a postponement of proceedings before the reviewing authority, interest on the claim shall permanently stop accruing at the date of the request. If the hearing is postponed at the request of the taxpayer, the reviewing authority shall hold a hearing on the ~~claim~~ appeal within 30 days after the postponement is requested unless the taxpayer agrees to a longer delay. If the reviewing authority postpones the hearing without a request by the taxpayer, interest on the claim shall continue to accrue. ~~In the case of manufacturing assessments made on or before December 31, 1982, by the department of revenue under s. 70.995, the state shall pay the interest on the refund from the appropriation under s. 20.855 (4) (a), except that no~~ No interest may be paid if the reviewing authority determines under s. 70.995 (8) (a) that the value of the property was reduced because the taxpayer supplied false or incomplete information. ~~If the assessment reduction involves a manufacturing property assessed under s. 70.995 or affects the municipality's equalized values, the clerk of the municipality may charge each taxing district for which taxes were collected from the taxpayer that district's proportionate share of the claim for refund. For purposes of this paragraph, the department of revenue shall have the sole discretion to determine the effect of the assessment reduction on the municipality's equalized values. Each taxing district so charged shall pay the municipality no later than January 31 of the year succeeding the taxing district's next property tax levy. If taxes are refunded, the municipality may proceed under s. 74.41.~~

NOTE: Revises s. 70.511 (2) (a) and (b) as follows:

1. Terminology similar to that used in s. 70.995 (8) (c) is adopted to describe more particularly the issues when objections to assessments are made.

2. A taxation district is given an additional year to pay claims for tax refunds filed after November 1, in order to assure that the taxation district will have sufficient time to increase its tax levy in order to pay the refund.

3. A now-dated provision relating to state payment of interest on certain refunds is deleted.

4. Language relating to charge-backs if the assessment of manufacturing property is reduced is deleted and a reference to the uniform charge-back procedure in revised ch. 74 is substituted.

SECTION 61. 70.56 (2) of the statutes is amended to read:

70.56 (2) SAME. Whenever a tax roll in any town, city or village shall be lost or destroyed before it has been returned by the treasurer or sheriff holding the same, a new roll shall be prepared in like manner ~~and with like warrant~~ as the first, and delivered to such treasurer or sheriff, who shall complete the collection of the taxes and return such new tax roll in the manner provided for the original tax roll.

NOTE: Reflects the discontinuation of the warrant.

SECTION 62. 70.65 of the statutes, as affected by 1985 Wisconsin Act 29 and 1987 Wisconsin Act 27, is repealed and recreated to read:

**70.65 Tax roll.** (1) CLERK TO PREPARE. Annually the clerk of the taxation district shall prepare a tax roll. The clerk shall begin preparation of the tax roll at a time sufficient to permit timely delivery of the tax roll under s. 74.03.

(2) CONTENT. The tax roll shall do all of the following:

(a) As shown on the assessment roll:

1. Identify all the real property within the taxation district and, with respect to each description of real property, the name and address of the owner and the assessed value.

2. Identify the name and address of the owners of all taxable personal property within the taxation district and the assessed value of each owner's taxable personal property.

(b) With respect to each description of real property and each owner of taxable personal property:

1. Show the total amount of taxes levied against the property by all taxing jurisdictions to which the property is subject.

2. Show all other taxes, assessments and charges against the property which are authorized by law to be collected as are taxes levied against property.

(c) Set forth the taxes, assessments and charges against property in the tax roll in a manner sufficiently organized and apportioned to permit collection and settlement of the taxes, assessments and charges under ch. 74.

(d) Show the total amount of taxes, assessments and charges to be collected against property within the taxation district.

(e) Direct the treasurer of the taxation district and the county treasurer to collect, under s. 74.07, the amount of taxes, assessments and charges under par. (d).

(f) Set forth any other information required by law or determined necessary by the department of revenue.

(3) **CERTIFICATION OF CORRECTNESS.** The clerk of the taxation district shall certify, on the tax roll, that the information contained in the tax roll is accurate, to the clerk's best knowledge.

(4) **FORM.** The format of the tax roll shall be prescribed by the department of revenue under s. 70.09 (3).

(5) **DELIVERY.** The clerk of the taxation district shall transfer the tax roll under s. 74.03.

**NOTE:** Combines and simplifies ss. 70.65 and 70.66. The recreated provision outlines only the basic information to be contained in the tax roll and expressly recognizes the responsibility of the department of revenue in developing the specific content and format of the tax roll.

Under the recreated section, the tax "roll" is the form developed by the department of revenue and the information contained therein; references to the tax roll as a "book" and to manual entries in the tax roll have been eliminated as antiquated. Generally, this section is intended to retain the basic function of the tax roll but to modernize the language to reflect modern data processing capabilities and to increase the flexibility of the department in developing the form and style of the roll.

In view of the elimination of the requirement that a warrant, charging the taxation district treasurer with collection of the taxes in the tax roll, accompany the roll, an element of formality in the tax roll has been retained by: (1) requiring the clerk of the taxation district to certify that the information contained in the tax roll is accurate and (2) requiring the tax roll to direct the the taxation district treasurer and the county treasurer to collect the taxes, assessments and charges shown on the roll.

**SECTION 63.** 70.66 of the statutes is repealed.

**NOTE:** See **NOTE** to previous **SECTION**.

**SECTION 64.** 70.665 of the statutes is repealed.

**NOTE:** Section 70.665 is restated in s. 74.09.

**SECTION 65c.** 70.68 (title) of the statutes is amended to read:

**70.68 (title) Collection of taxes.**

**SECTION 65g.** 70.68 (1) to (4) of the statutes are repealed.

**SECTION 65i.** 70.68 (5) (title) of the statutes is repealed.

**SECTION 65m.** 70.68 (5) (a) and (b) of the statutes are renumbered 70.68 (1) and (2) and amended to read:

70.68 (1) (title) **COLLECTION IN CERTAIN CITIES.** ~~On the expiration of the time specified the treasurer shall proceed to enforce the collection of such taxes in the manner provided by law; provided, that in cities of the first class however organized he shall issue his warrant, directed to~~ In cities authorized to act under s. 74.87, the chief of police of the city, requiring him, within a time specified therein to shall collect all state, county, city, school and other taxes due on personal

property as shall then remain unpaid, and the chief of police ~~receiving such warrant~~ shall possess all the powers given by law to town treasurers for the collection of such taxes, and be subject to the liabilities and entitled to the same fees as town treasurers in such cases, but such fees shall be turned over to the city treasurer and become a part of the general fund.

(2) **BOND OF CHIEF OF POLICE.** ~~Before the treasurer shall sign his warrant to the chief of police such~~ The chief of police shall give a bond to the city, in such sum and with such sureties as the council may prescribe, for the payment to the city treasurer of all taxes by him collected ~~or received by virtue of such warrant.~~

**SECTION 65n.** 70.68 (5) (c) and (d) of the statutes are repealed.

**SECTION 65p.** 70.69 of the statutes is repealed.

**SECTION 65r.** 70.70 of the statutes is repealed.

**SECTION 66.** 70.71 (1) of the statutes is amended to read:

70.71 (1) Whenever any town, city or village clerk neglects or refuses to make and deliver the tax roll ~~and warrant~~ within the time required by law the county clerk shall, at any time after such neglect or refusal, demand and summarily obtain the assessment roll for such year, and make, in the same manner as required of the town clerk, a tax roll for such town, city or village ~~and the like warrant thereto,~~ and deliver the same to the county treasurer for collection, ~~who shall have the power and proceed as directed in s. 70.70, in the case there provided, to execute such warrant.~~

**NOTE:** Deletes an obsolete cross-reference and reflects the discontinuation of the warrant.

**SECTION 67.** 70.73 (1) of the statutes is amended to read:

70.73 (1) **BEFORE DELIVERY.** Whenever it shall be discovered by any town, village or city clerk or treasurer that any parcel of land has been erroneously described on the tax roll he shall correct such description, and when he shall discover that personal property has been assessed to the wrong person, or two or more parcels of land belonging to different individuals or corporations have been erroneously assessed together on his tax roll, he shall notify the assessor and all parties interested, if residents of the county, by notice in writing to appear at the clerk's office at some time, not less than five days thereafter, to correct the assessment roll, at which time and place the assessment roll shall be corrected by entering the names of the persons liable to assessment thereon, both as to real and personal property, describing each parcel of land and giving its proper valuation to each parcel separately owned; but the valuation so given to separate tracts of real estate shall not together exceed nor be less than the valuation given to the same property when the several parcels were assessed together. Such valuation of parcels of land or correction of names of persons assessed with personal property may be made at any time before the tax roll ~~and warrant~~ shall be returned to the county treasurer for the year in which



such tax is levied. Such valuation or correction of names, when so made, shall be held just and correct and be final and conclusive.

NOTE: Reflects the discontinuation of the warrant.

SECTION 68. 70.73 (2) of the statutes is repealed.

NOTE: Section 70.73 (2) is continued, in revised form, in s. 74.05.

SECTION 69. 70.74 of the statutes is amended to read:

**70.74 Lien of reassessed tax.** (1) Whenever any tax or assessment or any part thereof levied on real estate, whether heretofore or hereafter levied, shall have been set aside or determined to be illegal or void or the collection thereof prevented by the judgment of a court or the action of the county board; or whenever any town, city or village treasurer shall have been prevented by injunction from collecting or returning as delinquent any such tax or assessment in consequence of any irregularity or error in any of the proceedings in the assessment of such real estate, the levy of such tax or the proceedings for its collection, or of any erroneous or imperfect description of such real estate, or of any omission to comply with any form or step required by law, or of the affixing of a revenue stamp to the tax certificate, and including the amount thereof in the same, or the including of any illegal addition with the lawful tax, or for any other cause, then, if the real estate was properly taxable or assessable, if it be not a proper case to collect by a resale of the land inclusion of the land in the tax certificate next issued under s. 74.57, such tax, or so much thereof as shall not have been collected and as may be taxable or assessable thereto may be reassessed or relieved upon such real estate at any time within 3 years after such judgment or such action of the county board or the dissolution of such injunction; and the proper town board, village board, board of trustees or common council shall make an order directing the same to be reassessed upon such real estate, and the clerk shall insert the same in the tax roll, opposite such real estate, in a separate column, as an additional tax, and the same shall be collected as a part of the tax for the year when so placed on the roll. Any such school district tax shall be so reassessed and relieved on the order of the town board; but the provisions of this section shall not be construed as conflicting with, limiting or in any way affecting the reassessment provided for in ss. 75.54 and 75.55. 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 sale certificate issued upon the sale of which includes such lands for such reassessed tax. ~~Such lien shall be superior to the lien of any tax sale certificate issued upon the sale of such land dated after the date of the lien of such reassessed tax but prior to the date of the tax sale certificate issued upon the sale of such land for such reassessed tax.~~

NOTE: Amends a provision relating to the reassessment of taxes to reflect the simplified system under revised ch. 74 and amended ch. 75 under which a single tax certificate is issued on tax-delinquent land and subsequent amounts delinquent are simply attached to it. There is no longer an issue as to which tax certificate lien is superior.

SECTION 70. 70.85 of the statutes, as created by 1987 Wisconsin Act 27, is repealed and recreated to read:

**70.85 Review of assessment by department of revenue.** (1) **COMPLAINT.** A taxpayer may file a written complaint with the department of revenue alleging that the assessment of one or more items or parcels of property in the taxation district the estimated fair market value of which, as shown on the tax bill, does not exceed \$1,000,000 is radically out of proportion to the general level of assessment of all other property in the district.

(2) **BOARD OF REVIEW; TIMING.** A complaint under this section may be filed only if the taxpayer has contested the assessment of the property for that year under s. 70.47. The complaint shall be filed with the department of revenue within 20 days after receipt of the board of review's determination or within 30 days after the date specified on the affidavit under s. 70.47 (12) if there is no return receipt.

(3) **FEE.** A taxpayer filing a complaint under this section shall pay a filing fee of \$100 to the department of revenue, which shall be credited to the appropriation under s. 20.566 (2) (h).

(4) **REVALUATION.** (a) In this subsection, "the property" means the items or parcels of property which are the subject of the written complaint filed under sub. (1).

(b) The department of revenue may revalue the property and adjust the assessment of the property to the assessment ratio of other property within the taxation district, if the department of revenue determines that:

1. The assessment of the property is not within 10% of the general level of assessment of all other property in the taxation district.

2. The revaluation of the property can be satisfactorily completed without a reassessment of all property within the taxation district.

3. The revaluation can be accomplished before November 1 of the year in which the assessment is made or within 60 days of the receipt of the written complaint, whichever is later.

(c) Appeal of the determination of the department of revenue shall be by an action for certiorari in the circuit court of the county in which the property is located.

(5) **OTHER PROPERTY.** In determining whether to revalue property under sub. (4), the department of revenue may examine the valuation of other property in the taxation district which is owned by the person filing the complaint.

(6) **TAX COMPUTED ON REVALUED AMOUNT.** The valuation fixed by the department of revenue under this section shall be substituted for the assessed value of the property shown on the tax roll, and the tax shall be computed on the amount of the valuation determined by the department of revenue.

(7) **DELAY IN REVALUATION.** (a) If the department of revenue has not completed the revaluation prior to the time established by a taxation district for fixing its tax rate, the taxation district shall base its tax rate on the total value of property contained in the assessment roll, including property whose valuation is contested under this section.

(b) If the department of revenue has not completed the revaluation prior to the time of the tax levy, the tax upon property with respect to which the revaluation has not been completed shall be computed on the basis of the contested value of the property. The taxpayer shall pay in full the tax based upon the contested valuation. If the department of revenue reduces the valuation of the property, the taxpayer may file a claim under s. 74.37 for a refund of taxes resulting from the reduction in value.

(8) **COSTS.** If the department of revenue determines that no change in the assessment of the property is required, the costs related to the department's determination shall be paid by the department. If the department of revenue changes the property assessment, costs related to the department's determination that the assessment of that property should be changed, but not more than \$300, shall be paid by the taxation district and shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts for costs shall be certified by the department of revenue on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(9) **COUNTY ASSESSOR SYSTEM.** In this section, for those taxation districts that are under a county assessor system, the term "local assessor" includes the county assessor and the term "board of review" includes the county board of review.

NOTE: Revises s. 70.85, as created by 1987 Wisconsin Act 27, in the following manner:

1. Authorizes the department of revenue, in determining whether to revalue property under this section, to examine the valuation of other property which is owned by the person requesting revaluation.

2. Replaces the restriction that the department of revenue may revalue property only if the valuation is "radically out of proportion to the general average of the assessment of all other property in the district" with a provision that the department may revalue property if the assessment of the property is not within 10% of the general level of assessments of all other property within the district.

3. Places a limitation of \$300 per appeal on the amount which the department of revenue may charge a taxation district for the department's cost of revaluing property under this provision.

4. Provides that the section is applicable to personal property as well as real property.

5. Specifies in sub. (4) (a), for purposes of exactness, the property which the department of revenue is to consider for purposes of revaluation.

**SECTION 71.** 70.86 of the statutes is amended to read:

**70.86 Descriptions, simplified system.** The common council or other governing body of any city in this state may at its option adopt a simplified system of describing real property in either the assessment roll or the tax roll or in both the assessment roll and tax roll of such city, and may ~~likewise~~ from time to time amend or change such simplified system. Descriptions in property tax bills shall be as provided under s. 74.09 (3) (a).

NOTE: For convenience, refers to a new provision relating to real property descriptions in tax bills.

**SECTION 72.** 71.09 (7) (a) 7 of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

71.09 (7) (a) 7. "Property taxes accrued" means real or personal property taxes or monthly parking permit fees under s. 66.058 (3) (c), exclusive of special assessments, delinquent interest and charges for service, levied on a homestead owned by the claimant or a member of the claimant's household. "Real or personal property taxes" means those levied under ch. 70, less the tax credit, if any, afforded in respect of such property by s. 79.10. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common or is owned as marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, property taxes accrued is that part of property taxes accrued levied on such homestead (reduced by the tax credit under s. 79.10) that reflects the ownership percentage of the claimant and the claimant's household. A marital property agreement or unilateral statement under ch. 766 has no effect in computing property taxes accrued for a person whose homestead is not the same as the homestead of that person's spouse. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the local treasurer ~~with the warrant~~ for collection. If a homestead is sold or purchased during the calendar year of the levy, the property taxes accrued for the seller and the buyer are the amount of the tax levy prorated to each in proportion to the periods of time each both owned and occupied the homestead during the year to which the claim relates. The seller may use the closing agreement pertaining to the sale of the homestead, the property tax bill for the year before the year to which the claim relates or the property tax bill for the year to which the claim relates as the basis for computing property taxes accrued, but those taxes are allowable only for the portion of the year during which the seller owned and occupied the sold homestead. If a household owns and occupies 2 or more homesteads in the same calendar year, property taxes accrued is the sum of the prorated property taxes accrued attributable to the household for each of

such homesteads. If the household owns and occupies the homestead for part of the calendar year and rents a homestead for part of the calendar year, it may include both the proration of taxes on the homestead owned and rent constituting property taxes accrued with respect to the months the homestead is rented in computing the amount of the claim under pars. (gn) to (grn). If a homestead is an integral part of a multipurpose or multidwelling building, property taxes accrued are the percentage of the property taxes accrued on that part of the multipurpose or multidwelling building occupied by the household as a principal residence plus that same percentage of the property taxes accrued on the land surrounding it, not exceeding one acre, that is reasonably necessary for use of the multipurpose or multidwelling building as a principal residence, except as the limitations of par. (h) apply. If the homestead is part of a farm, property taxes accrued are the property taxes accrued on up to 120 acres of the land contiguous to the claimant's principal residence and include the property taxes accrued on all improvements to real property located on such land, except as the limitations of par. (h) apply.

NOTE: Revises s. 71.09 (7) (a) 7 to reflect the repeal of the requirement that the taxation district treasurer be given a warrant to collect the amounts shown on the tax roll. [See the NOTE to s. 74.03.]

SECTION 73. 71.09 (11) (a) 7 of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

71.09 (11) (a) 7. "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on the farmland and improvements owned by the claimant or any member of the claimant's household in any calendar year under ch. 70, less the tax credit, if any,

afforded in respect of the property by s. 79.10. "Property taxes accrued" shall not exceed \$6,000. If farmland is owned by a tax-option corporation or by 2 or more persons or entities as joint tenants, tenants in common or partners or is marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland (reduced by the tax credit under s. 79.10) that reflects the ownership percentage of the claimant and the claimant's household. For purposes of this paragraph, property taxes are "levied" when the tax roll is delivered to the local treasurer with the warrant for collection. If farmland is sold during the calendar year of the levy the "property taxes accrued" for the seller and buyer shall be the amount of the tax levy prorated to each in the closing agreement pertaining to the sale of the farmland or, if not so provided for in the closing agreement, the tax levy shall be prorated between the seller and buyer in proportion to months of their respective ownership.

NOTE: Amends s. 71.09 (11) (a) 7 to reflect the repeal of the requirement that the local treasurer be given a warrant to collect the amounts shown on the tax roll. [See the NOTE to s. 74.03.]

SECTION 74. 73.03 (31) of the statutes is amended to read:

73.03 (31) To compile and to furnish to the clerks of all taxation districts the information required under s. ~~70.665~~ 74.09.

NOTE: Corrects a cross-reference.

SECTION 75. Chapter 74 (exc. 74.695) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed and recreated to read:

NOTE: The following is a table of contents to new ch. 74.

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CHAPTER 74  
PROPERTY TAX COLLECTION  
SUBCHAPTER I  
DEFINITIONS

**74.01 Definitions.** In this chapter:

(1) "General property taxes" means taxes levied upon general property, as defined in s. 70.02, and measured by the property's value.

NOTE: New. "General property taxes" is used primarily to distinguish general property taxes from special assessments, special charges and other special taxes collected under ch. 74. "General property" is defined in s. 70.02 as all taxable real and personal property, other than utility property, managed forest land, forest croplands, woodland tax lands and metaliferous mineral property.

(2) "Proportionate share of general property taxes", for any taxing jurisdiction, means the amount resulting from multiplying the total general property tax levy of the taxing jurisdiction, as reflected in the tax roll, by the percentage which results from dividing:

(a) The amount of general property taxes collected by the taxation district treasurer or county treasurer, through the last day of the month preceding the date upon which settlement is required, minus amounts previously settled or settled in full, by

(b) The amount of the total general property taxes levied on the taxation district tax roll.

NOTE: New. The computation is used to determine the proportion of all general property taxes collected by the taxation district treasurer or county treasurer which is distributed on the various designated settlement dates to each taxing jurisdiction levying a tax.

(3) "Special assessment" means an amount entered in the tax roll as an assessment against real property to compensate for all or part of the costs of public work or improvements which benefit the property. "Special assessment" includes any interest and penalties assessed for nonpayment of the special assessment before it is placed in the tax roll.

NOTE: New. "Special assessment" is used to distinguish special assessments from general property taxes, special charges and special taxes. Special assessments are collected and set-

tled under procedures which differ in certain respects from those applicable to general property taxes. In addition, the definition makes clear that any interest and penalties assessed for nonpayment of a special assessment before it is placed in the tax roll become part of the special assessment at the time it is placed in the tax roll.

Therefore, interest and penalties assessed before the special assessment is placed in the tax roll are paid to the entity which levied the special assessment. Interest and penalties assessed under s. 74.47 after the special assessments are placed in the tax roll are paid as provided by ss. 74.11 (11) and 74.47 (3).

(4) "Special charge" means an amount entered in the tax roll as a charge against real property to compensate for all or part of the costs to a public body of providing services to the property. "Special charge" includes any interest and penalties assessed for nonpayment of the special charge before it is placed in the tax roll. "Special charge" also includes penalties under s. 70.995 (12).

NOTE: New. "Special charge" is used to distinguish certain charges from general property taxes. Special charges are collected and settled under procedures which differ in certain respects from those applicable to general property taxes. In addition, the term makes clear that any interest and penalties assessed for nonpayment of a special charge before it is placed in the tax roll become part of the special charge at the time it is placed in the tax roll. Therefore, interest and penalties assessed before the special charge is placed in the tax roll are paid to the entity which levied the special charge. Interest and penalties assessed under s. 74.47 after the special charges are placed in the tax roll are paid as provided by ss. 74.11 (11) and 74.47 (3).

(5) "Special tax" means any amount entered in the tax roll which is not a general property tax, special assessment or special charge. "Special tax" includes any interest and penalties assessed for nonpayment of the tax before it is placed in the tax roll.

NOTE: New. "Special tax" is used to distinguish certain taxes from general property taxes. Special taxes are collected and settled under procedures which differ in certain respects from those applicable to general property taxes. In addition, the term makes clear that any interest and penalties assessed for nonpayment of a special tax before it is placed in the tax roll become part of the special tax at the time it is placed in the tax roll. Therefore, interest and penalties assessed before the special tax is placed in the tax roll are paid to the entity which

levied the special tax. Interest and penalties assessed under s. 74.47 after the special taxes are placed in the tax roll are paid as provided by ss. 74.11 (11) and 74.47 (3).

(6) "Taxation district" means a city, village or town or, if a city or village lies in more than one county, that portion of the city or village which lies within a county.

NOTE: New. The definition is consistent with the concept of "taxation district" under ch. 70. See s. 70.045.

(7) "Taxing jurisdiction" means any entity authorized by law to levy taxes on general property which is located within its boundaries.

NOTE: New. "Taxing jurisdiction" is used to refer generally to all units of government which have authority to levy taxes on general property. "General property" is defined in s. 70.02 as all taxable real and personal property, other than utility property, managed forest land, forest croplands, woodland tax lands and metalliferous mineral property.

## SUBCHAPTER II

### COMMENCEMENT OF COLLECTION PROCESS

**74.03 Delivery of tax roll.** The clerk of the taxation district shall transfer the tax roll, prepared under s. 70.65, to the treasurer of the taxation district on or before the 3rd Monday in December.

NOTE: Based on s. 70.68 (2). The requirement that a warrant be delivered to the taxation district treasurer, charging the treasurer with collection of the taxes shown in the tax roll, is deleted as antiquated. Consistent with this deletion, s. 70.68 (1) and (1m), which relate to the form of the warrant, are repealed. New s. 74.07 charges the taxation district treasurer with the duty to collect the taxes shown in the tax roll. Section 70.65, as repealed and recreated, provides that the tax roll must direct the taxation district treasurer to collect the taxes shown in the tax roll.

**74.05 Correction of tax roll information.** (1) DEFINITION. In this section, "error in the tax roll" means an error in the description of any real or personal property, in the identification of the owner or person to whom the property is assessed or in the amount of the tax or an error resulting from a palpably erroneous entry in the assessment roll.

(2) DUTY TO CORRECT. If the taxation district treasurer discovers an error in the tax roll after the tax roll has been transferred under s. 74.03, the clerk of the taxation district shall correct the error. The clerk shall keep a record identifying the place on the tax roll where each correction is made, briefly describing the correction and specifying the date when the correction was made.

NOTE: Revises s. 70.73 (2). Most of the revisions are made for consistency with s. 74.03. See the NOTE to that section. In addition, correction by the taxation district clerk of errors in the tax roll information is made mandatory. Previously, the clerk's duty in this regard was couched in permissive terms, but the attorney general concluded, nonetheless, that the duty was mandatory [15 OAG 42 (1926)].

**74.07 Treasurers responsible for collection.** The taxation district treasurer and the county treasurer shall collect the general property taxes, special assessments, special taxes and special charges shown in the tax roll.

NOTE: New, although for taxation district treasurers the substance was contained in provisions relating to the warrant to be attached to the tax roll in repealed s. 70.68 (1), (1m) and (2).

**74.09 Property tax bill and related information.** (1) DEFINITION. In this section, the "estimated fair market value of property" means the quotient of the assessed value of the property divided by the assessment ratio of all taxable property in the taxation district for the same year, as determined by the department of revenue.

(2) PREPARATION. The clerk of the taxation district shall prepare the real and personal property tax bills. The form of the property tax bill shall be prescribed by the department of revenue and shall be uniform.

(3) REQUIRED INFORMATION. The property tax bill shall:

(a) Include the real property description shown in the tax roll. If the description in the tax roll is longer than the space provided for it on the property tax bill, the bill may include as a substitute for the complete description as much of the description as fits in the space. If an incomplete description is used, the bill shall include a notice to that effect and to the effect that the complete description is contained in the tax roll and may be reviewed.

(b) Except in the case of property tax bills issued by cities authorized to act under s. 74.87, show all of the following:

1. The amount of the tax allocable to the property levied by each taxing jurisdiction and the amount of the tax that would otherwise be levied if there were no distribution of state tax credits under subch. II of ch. 79; general and categorical school aids under chs. 115 and 121 and ss. 24.78 and 43.70; vocational, technical and adult education district aids under ss. 38.28 and 38.32; highway aids under s. 86.30; and shared revenue under subch. I of ch. 79.

2. The amount of state tax credits allocable to the property under subch. II of ch. 79.

3. The amount of the aids under subd. 1 allocable to the property estimated to be paid to the county, municipality, school district and vocational, technical and adult education district for which the taxpayer pays taxes.

(c) Show the assessed value of the property as it appears in the tax roll and the estimated fair market value of the property.

(d) Indicate whether there are delinquent general property taxes, special taxes, special charges or special assessments allocable to the property.

(e) Show the aggregate net tax rate after the distribution of credits under s. 79.10.

(f) Include a notice, prescribed by the department of revenue, of the property tax credits available to taxpayers.

(g) Include a notice to the effect that the person to whom the bill is sent may request that a copy of the tax receipt prepared under s. 74.19 be mailed to that person. This paragraph does not apply if the taxation district mails or tenders a tax receipt prepared under s. 74.19 in all cases of payment of taxes.

(h) State when the taxes are due and to whom they shall be paid.

(4) **EXPLANATION OF FAIR MARKET VALUE.** The clerk of the taxation district shall include with the property tax bill an explanation, as prescribed by the department of revenue, of the procedure used to establish the estimated fair market value of taxable property.

(5) **MAILING.** The taxation district clerk or the clerk's designee shall mail the property tax bill to each property taxpayer of the taxation district or the taxpayer's designee. If the property tax bill is mailed to the taxpayer's designee, the designee shall furnish the taxpayer with a copy of the bill.

(6) **EFFECT OF FAILURE TO RECEIVE.** Failure to receive a property tax bill does not affect the validity of the general property taxes, special taxes, special charges and special assessments levied or the collection of delinquent general property taxes, special taxes, special charges and special assessments.

#### SUBCHAPTER III PAYMENT OF TAXES

**74.11 Dates for payment of taxes, special assessments and special charges.** (1) **APPLICABILITY.** Except as provided in s. 74.87, general property taxes, special assessments, special charges and special taxes collectible under this chapter are payable as provided in this section, except as provided in s. 74.12.

(2) **REAL PROPERTY TAXES.** All taxes on real property shall be paid in one of the following ways:

(a) In full on or before January 31.

(b) In 2 equal instalments, unless subject to sub. (5), with the first instalment payable on or before January 31 and the 2nd instalment payable on or before July 31.

(3) **SPECIAL ASSESSMENTS, SPECIAL CHARGES AND OTHER TAXES.** All special assessments, special charges and special taxes that are placed in the tax roll shall be paid in full on or before January 31.

(4) **PERSONAL PROPERTY TAXES.** All taxes on personal property shall be paid in full on or before January 31.

(5) **WHEN NO INSTALMENTS.** If the total real property tax is less than \$100, it shall be paid in full on or before January 31.

(6) **TO WHOM PAYMENTS MADE.** (a) Payments made on or before January 31 shall be made to the taxation district treasurer.

(b) All other payments shall be made to the county treasurer.

(7) **DELINQUENT FIRST INSTALMENT.** If the first instalment of taxes on real property is not paid on or before January 31, the entire amount of the taxes remaining unpaid is delinquent as of February 1.

(8) **DELINQUENT 2ND INSTALMENT.** If the 2nd instalment of taxes on real property is not paid on or before July 31, the entire amount of the taxes remaining unpaid is delinquent as of August 1.

(10) **DELINQUENT ANNUAL PAYMENT.** (a) If all special assessments, special charges, special taxes and personal property taxes due under sub. (3) or (4) are not paid in full on or before January 31, the amounts unpaid are delinquent as of February 1.

(b) If any special assessments, special charges and special taxes are entered in the tax roll as charges against a parcel of real property and are delinquent under par. (a), the entire annual amount of real property taxes on that parcel which is unpaid is delinquent as of February 1.

(11) **PAYMENT OF DELINQUENT PAYMENTS, INTEREST AND PENALTY.** (a) All real property taxes, special assessments, special charges and special taxes that become delinquent shall be paid, together with interest and penalties charged from the preceding February 1, to the county treasurer.

(b) All personal property taxes that become delinquent shall be paid, together with interest and penalties charged from the preceding February 1, to the taxation district treasurer.

(12) **PAYMENT PRIORITY.** (a) If a taxation district treasurer or county treasurer receives a payment from a taxpayer which is not sufficient to pay all general property taxes, special charges, special assessments and special taxes due, the treasurer shall apply the payment to the amounts due, including interest and penalties, in the following order:

1. Special charges.
2. Special assessments.
3. Special taxes.
4. General property taxes.

(b) The allocation under par. (a) 1 to 4 is conclusive for purposes of settlement under ss. 74.23 to 74.29 and for determining delinquencies under this section.

**NOTE:** Subsection (1), which states the applicability of s. 74.11, is new.

Subsection (3) revises s. 74.03 (3) and deletes, as no longer necessary, references to chs. 88 and 89 of the 1965 statutes. Language explicitly stating that special charges are collected by means of the property tax collection process is added to sub. (3). This will complement s. 66.60 (16), which provides that delinquent special charges (including charges for snow removal, weed elimination and garbage removal) are automatically placed on the tax roll for collection and are not payable in instalments.

Subsection (3) also revises provisions of s. 74.03 relating to the time for paying special assessments, special charges and special taxes. Section 74.03 (2) provided that special assessments levied for public improvements and benefits may be paid in 2 equal instalments, as taxes on real property may be paid, but all other special assessments, charges and taxes other than general property taxes entered on the tax roll are due on or before the last day of February. Subsection (3) now provides that all special assessments, special charges and special taxes entered on the tax roll are payable in full on or before January 31.

Subsection (4) revises that portion of s. 74.03 (1r) relating to the personal property tax payment date by requiring personal property taxes to be paid by January 31, rather than by the last day of February.

Subsection (5) revises s. 74.03 (2) by replacing the \$50 minimum instalment payment requirement with a provision that

requires a real property tax bill to be paid in full on or before January 31 if the total amount of the bill is less than \$100. In addition, sub. (5) deletes the provision found in s. 74.03 (2) (c) that, in towns, the minimum first instalment payment requirement applies to the total tax levied against one person rather than to each individual parcel or description of property. This provision is deleted because it is antiquated and places an unnecessary administrative burden upon town officials.

Subsection (10) is new. It provides, in par. (b), that failure to pay any of the assessments, charges or taxes under sub. (3) by January 31 results in the entire annual amount of taxes on the parcel of real property against which the assessments, charges or taxes are entered in the tax roll becoming due, even if the first instalment of real property taxes on that parcel is paid in a timely manner. The special committee determined that this provision would encourage persons to pay assessments, charges and nongeneral property taxes in a timely manner.

Subsection (12) is new. It specifies against which charges in the tax roll a payment is to be allocated when the payment is not sufficient to pay all taxes, charges or assessments due, plus interest and penalties. The payment priority established by the subsection is applicable both to determining delinquencies and to the settlement procedure under ss. 74.23 to 74.29.

**74.12 Multiple instalments payment option.** (1) **AUTHORITY.** (a) The governing body of any taxation district may, by ordinance, authorize the payment of real property taxes in 3 or more instalments. An ordinance enacted under this paragraph, or any repeal of, or amendment to, such an ordinance applies to the collections of a calendar year only if it is enacted on or before August 15 of the preceding calendar year.

(b) In any taxation district which has enacted an ordinance under par. (a), all general property taxes, special assessments, special charges and special taxes shall be collected as provided in this section, rather than as provided in s. 74.11.

(2) **REQUIRED PROVISIONS OF ORDINANCE.** An ordinance enacted under sub. (1) (a) shall provide that:

(a) Real property taxes may be paid in 3 or more instalments. Each instalment is due on the last day of the month designated.

(b) The first instalment shall be paid on or before January 31 and at least 50% of the real property taxes shall be paid on or before April 30.

(c) All real property taxes shall be paid by July 31.

(3) **MINIMUM PAYMENT, BALANCE PAYABLE.** An ordinance enacted under sub. (1) (a) may establish a minimum payment amount for instalments and shall authorize a taxpayer to pay the remaining unpaid balance of any real property taxes on any instalment payment date.

(4) **REAL PROPERTY TAXES.** All real property taxes shall be paid in one of the following ways:

(a) In full on or before January 31.

(b) In instalments under the ordinance.

(5) **SPECIAL ASSESSMENTS, SPECIAL CHARGES AND OTHER TAXES.** All special assessments, special charges and special taxes that are placed in the tax roll shall be paid in full on or before January 31.

(6) **PERSONAL PROPERTY TAXES.** All personal property taxes shall be paid in full on or before January 31.

(7) **DELINQUENT FIRST INSTALMENT.** If the first instalment of real property taxes is not paid on or before January 31, the entire amount of the remaining unpaid taxes on that parcel is delinquent as of February 1.

(8) **DELINQUENT 2ND OR SUBSEQUENT INSTALMENT.** If the 2nd or any subsequent instalment payment of real property taxes is not paid by the due date specified in the ordinance, the entire amount of the remaining unpaid taxes on that parcel is delinquent as of the first day of the month after the payment is due.

(9) **DELINQUENT ANNUAL PAYMENT.** (a) If all special assessments, special charges, special taxes and personal property taxes that are due under sub. (5) or (6) are not paid in full on or before January 31, the amounts unpaid are delinquent as of February 1.

(b) If any special assessments, special charges or special taxes are entered in the tax roll as charges against a parcel of real property and are delinquent under par. (a), the entire annual amount of real property taxes on that parcel which is unpaid is delinquent as of February 1.

(10) **PAYMENT OF DELINQUENT PAYMENTS, INTEREST AND PENALTY.** (a) All real property taxes, special assessments, special charges and special taxes that become delinquent and are paid on or before July 31, and all delinquent personal property taxes, whenever paid, shall be paid, together with interest and penalties charged from the preceding February 1, to the taxation district treasurer.

(b) All real property taxes, special assessments, special charges and special taxes that become delinquent and are not paid under par. (a) shall be paid, together with interest and penalties charged from the preceding February 1, to the county treasurer.

(11) **PAYMENT PRIORITY.** (a) If a taxation district treasurer or county treasurer receives a payment from a taxpayer which is not sufficient to pay all general property taxes, special charges, special assessments and special taxes due, the treasurer shall apply the payment to the amounts due, including interest and penalties, in the following order:

1. Special charges.
2. Special assessments.
3. Special taxes.
4. General property taxes.

(b) The allocation under par. (a) 1 to 4 is conclusive for purposes of settlement under ss. 74.29 and 74.30 and for determining delinquencies under this section.

(12) **DELINQUENT TAXES RETURNED; COLLECTION BY COUNTY.** (a) The taxation district treasurer shall retain the tax roll and make collections through July 31. On or before August 15, the taxation district treasurer shall return the tax roll to the county treasurer. The county treasurer shall collect all returned delinquent real property taxes, special assessments, special charges and special taxes, together with interest and penalty assessed from the previous February 1, as provided under s. 74.47.

(b) The taxation district treasurer shall forward to the county treasurer all real property taxes, special assessments, special charges and special taxes received which were not settled for or retained for the taxation district under s. 74.30.

**74.13 Taxes paid in advance of levy.** (1) **TREASURER SHALL ACCEPT.** The taxation district treasurer shall accept payment of general property taxes, special assessments, special charges and special taxes in advance of the tax levy, subject to the following:

(a) General property taxes, special assessments, special charges and special taxes may be paid in advance of the levy either by single payment or payment in instalments of not less than \$100. The total taxes paid in advance of the levy may not exceed the total taxes previously levied against the property, as shown on the previous tax roll.

(b) Except as provided in sub. (3), general property taxes, special assessments, special charges and special taxes may be paid in advance of the levy during the period from August 1 until the 3rd Monday in December.

(c) The taxation district treasurer shall hold general property taxes, special assessments, special charges and special taxes paid in advance of the levy. Those taxes, assessments and charges are subject to settlement under s. 74.23. Any interest earned prior to settlement under s. 74.23 on general property taxes, special assessments, special charges or special taxes paid in advance of the levy accrues to the taxation district to which the general property taxes, special assessments, special charges or special taxes were paid.

(d) Upon receipt of the tax roll, general property taxes, special assessments, special charges and special taxes which have been paid in advance shall be credited against the general property taxes, special assessments, special charges and special taxes against the property shown in the tax roll. If the total paid general property taxes, special assessments, special charges and special taxes paid in advance exceeds the total shown in the tax roll, the taxation district treasurer shall return the excess to the person who made the advance payment.

(2) **ADVANCE PAYMENT DEPOSITORIES.** The taxation district treasurer may designate one or more public depositories, among those previously designated under s. 34.05, to which taxpayers may make payments in advance of the tax levy. A receipt for a payment in advance of the levy issued by a designated public depository has the same legal status as a receipt issued by the taxation district treasurer.

(3) **ADVANCE PAYMENT WHEN CEASING BUSINESS.** Personal property taxes on property used in a commercial enterprise which is ceasing business may be paid in advance of the tax levy at any time before the 3rd Monday in December of the year in which business ceases.

NOTE: Revises s. 74.035, as follows:

1. Makes acceptance of tax payments in advance of the levy mandatory, rather than a matter of local option.

2. Clarifies that the provision applies to all taxes, assessments and charges collected under ch. 74.

3. Increases the minimum instalment for payment of taxes in advance of the tax levy from \$10 to \$100 and eliminates the requirement that any instalment payment be a multiple of \$5.

4. Limits the total taxes (not assessments and charges) paid in advance of the levy to the total taxes levied against the property during the previous year; eliminates the provision that limits advance payment of taxes to 80% of the previous year's tax on the property.

5. Eliminates the requirement that taxes, assessments and charges paid in advance of the levy be held "in trust" for the taxpayer. This change reflects concern that the "in trust" language may be construed as imposing a fiduciary duty on the taxing jurisdiction.

6. Clearly provides that any interest earned on taxes, assessments and charges paid in advance of the levy may be retained by the taxation district to which they are paid.

7. Newly provides that taxes on personal property used in a commercial enterprise which is ceasing business may be paid in advance of the tax levy at any time before the 3rd Monday in December of the year in which business ceases. Thus, advance payment of those taxes is not subject to the general requirement that taxes paid in advance of the levy may be paid only during the period from August 1 until the 3rd Monday in December.

8. Permits any treasurer, not only part-time treasurers, to designate one or more public depositories to which taxpayers may make advance payments. The revised provision requires that the designation be made from public depositories designated by the governing body under s. 34.05.

9. Eliminates as unnecessary the requirement that notice be published identifying those public depositories to which taxpayers may make payments in advance of the levy. This information can be readily obtained from the treasurer.

10. Expressly requires that if paid taxes, assessments and charges paid in advance exceed the total levied, assessed and charged against the property, the excess shall be returned to the person who made the advance payment.

**74.15 Payment of taxes by grantor and grantee.** (1) **REAL PROPERTY TAXES.** If real property is conveyed and there is no valid written agreement between the grantor and the grantee concerning the payment of real property taxes for the year in which the conveyance is made, the grantor shall pay to the grantee an amount equal to one-twelfth of the taxes assessed against the property for the calendar year preceding the year in which the conveyance is made multiplied by the number of months in the calendar year of the conveyance which have elapsed before the date of the conveyance, including the month in which the conveyance is made if the conveyance occurs after the 15th day of the month.

(2) **PERSONAL PROPERTY TAXES.** If personal property is sold, the seller, at the time of sale, shall pay to the treasurer of the taxation district in which the personal property was assessed under s. 70.13, an amount equal to one-twelfth of the taxes assessed against the property for the calendar year preceding the year in which the sale is made multiplied by the number of months in the calendar year of the sale which have elapsed before the date of sale, including the month in which the sale is made if the sale occurs after the 15th



day of the month. The buyer is liable for any remaining amount of personal property taxes levied upon the property.

NOTE: Subsection (1) restates s. 74.62.

Subsection (2) is new. It is intended to alleviate difficulties in collecting personal property taxes for the year when personal property is sold.

**74.19 Tax receipts.** The county clerk, unless a different official is designated by the county board, shall procure and furnish tax receipts, prescribed under s. 70.09 (3), to each taxation district treasurer in the county. The taxation district treasurer shall use the tax receipts so furnished. If requested under s. 74.09 (3) (g), the taxation district treasurer shall mail a copy of the tax receipt to the requester. This section does not apply to cities authorized to proceed under s. 74.87 or to counties having a population of 500,000 or more.

NOTE: Revises ss. 74.08 and 74.09, as follows:

1. Eliminates the requirements that the treasurer of a taxation district enter on each property tax receipt the name of the person paying the taxes, if that person is not the owner of the property taxed, the date of payment and the aggregate amount of taxes paid and sign the receipt. These requirements are not fulfilled in many jurisdictions and were not considered necessary by the special committee.

2. Deletes the requirement that duplicate receipts be retained and used. The special committee concluded that this requirement is not compatible with modern data processing practices in the tax collection process and, therefore, is antiquated. The basic information required to be retained on duplicate receipts is also contained in the tax roll.

3. Deletes as antiquated the requirement that, annually, the taxation district treasurer compare the stub book and duplicate receipts with the tax roll. Comparison of the payment of taxes, assessments and charges with the tax roll will routinely be made by the treasurer of the taxation district at the time of the May settlement under s. 74.27.

4. Eliminates the requirement that a receipt be delivered by the taxation district treasurer "to the appropriate person." The special committee concluded that the furnishing of tax receipts generally should be a matter of local option, in view of:

a. The requirement that a receipt be mailed to the person to whom the tax bill is sent, if so requested. See this section and new s. 74.09 (3) (g); and

b. The requirement of new s. 74.21 that notice of property tax payments from escrowed funds be sent to the property owner.

**74.21 Notification of payment of taxes from escrowed funds.** If a person other than the property owner pays to a taxation district or county, from an escrow account funded by the property owner, the real property taxes levied against owner-occupied residential property containing not more than 4 dwelling units, the payer annually shall send written notification of payment of real property taxes to the property owner. The notification shall be sent within 30 days after the last payment of real property taxes by the payer for any year. The notification shall state when the real property taxes were paid and the amount paid.

NOTE: New. Reflects concerns that property owners are not always timely notified of payment of property taxes from escrowed funds.

The requirement that notification be sent within 30 days of the "last payment" is not intended to limit the requirement to those situations where property taxes are paid "in full" from an escrow account; "last payment" refers to the last payment in terms of time, not to payment in full. Some escrow arrangements may not fully cover the property taxes due, and the owner is responsible for paying the remainder.

#### SUBCHAPTER IV SETTLEMENT

**74.23 January settlement.** (1) SETTLEMENT. On or before January 15, the treasurer of each taxation district, including a district which has enacted an ordinance under s. 74.12, and the treasurer of each taxation district, including a district which has enacted an ordinance under s. 74.85, but not the treasurer of a city authorized to act under s. 74.87, shall settle for all collections received through the last day of the preceding month as follows:

(a) *Special assessments, special charges and special taxes.* The taxation district treasurer shall:

1. Pay to the county treasurer all collections of special assessments or special charges levied under ch. 88.

2. Pay to the proper treasurer all collections of special assessments, special charges and special taxes, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and managed forest land taxes under ch. 77 shall be settled for under s. 74.25 (1) (a) 1 to 8.

3. Retain all collections of special assessments, special charges and special taxes due to the taxation district.

4. Retain all collections of omitted property taxes under s. 70.44.

(b) *General property taxes.* After making the distribution under par. (a), the taxation district treasurer shall pay to each taxing jurisdiction within the district its proportionate share of general property taxes and, as part of that distribution, shall retain for the taxation district and for each tax incremental district within the taxation district its proportionate share of general property taxes.

(2) APPROVAL OF PAYMENT NOT REQUIRED. The taxation district treasurer shall make payments required under sub. (1) whether or not the governing body of the taxation district has approved those payments. Following a payment required under sub. (1), the taxation district treasurer shall prepare and transmit a voucher for that payment to the governing body of the taxation district.

NOTE: Subsection (1) (a) revises provisions of s. 74.03 (5) by requiring the taxation district treasurer to make the first settlement with other taxing jurisdictions by January 15, rather than by March 15. The treasurer is required to settle with other taxing jurisdictions on all amounts collected through the last day of the preceding month. The paragraph does not continue the provisions of s. 74.03 (5) (d) 1 and 2, which require the taxation district treasurer to settle for the full amount due on state trust fund loans from borrowing units levying taxes on property within the taxation district. State

trust fund loans will be settled for in proportion to the amount of the general property tax levy collected, as are other general property tax revenues due to taxing jurisdictions. The paragraph also provides that occupational and private forest taxes are not settled for in the January settlement but, rather, are settled for in the February settlement under s. 74.25 (1) (a) 1 to 8.

Subsection (1) (a) further revises s. 74.03 (5) to state explicitly that collections of property taxes inadvertently omitted from the tax roll in prior years are to be retained by the taxation district treasurer for the taxation district. This requirement currently is contained in instructions to taxation district treasurers prepared by the department of revenue but is not specified in the statutes.

Subsection (1) (b), together with the definition of "proportionate share of general property taxes" in s. 74.01 (2), revises current s. 74.03 (5) to state that each taxing jurisdiction receives its proportionate share of all general property taxes collected through the last day of the month preceding the settlement.

Subsection (2) is new. It clarifies and emphasizes that settlement payments by the taxation district treasurer are to be made as required by statute and are not contingent on approval of the governing body of the taxation district. The voucher requirement ensures that the governing body is informed of settlement payments and that regular accounting procedures are followed.

**74.25 February Settlement.** (1) SETTLEMENT. On or before February 15, the taxation district treasurer, except the treasurer of a city authorized to proceed under s. 74.87, shall settle for all collections received through the last day of the preceding month and all amounts timely paid under s. 74.69 (1) which were not settled for under s. 74.23 as follows:

(a) *Special assessments, special charges and special taxes.* The taxation district treasurer shall:

1. Pay to the county treasurer all collections of special assessments or special charges levied under ch. 88.

2. Pay to the proper treasurer all collections of special assessments, special charges and special taxes, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and managed forest land taxes under ch. 77 shall be settled for under subs. 5 to 8.

3. Retain all collections of special assessments, special charges and special taxes due to the taxation district, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and managed forest land taxes under ch. 77 shall be settled for under subs. 5 to 8.

4. Retain all collections of omitted property taxes under s. 70.44.

5. Pay to the state treasurer all collections of occupational taxes on mink farms, 30% of collections of occupational taxes on iron ore concentrates and 10% of collections of occupational taxes on coal docks.

6. Pay to the county treasurer 20% of collections of occupational taxes on coal docks, 20% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a) and all collections of payments for closed lands under s. 77.84 (2) (b).

7. Retain for the taxation district all collections of occupational taxes on grain storage, scrap iron and

steel and petroleum and petroleum products and 70% of collections of occupational taxes on iron ore concentrates and coal docks.

8. Retain for the taxation district all woodland tax law collections under s. 77.16 and 80% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a).

(b) *General property taxes.* After making the distribution under par. (a), the taxation district treasurer shall do all of the following:

1. Pay in full to each taxing jurisdiction within the district all personal property taxes included in the tax roll which have not previously been paid to, or retained by, that taxing jurisdiction and, as part of that distribution, allocate to each tax incremental district within the taxation district its proportionate share of personal property taxes.

2. Pay to each taxing jurisdiction within the district its proportionate share of real property taxes and, as part of that distribution, shall retain for the taxation district and for each tax incremental district within the taxation district its proportionate share of real property taxes.

(2) APPROVAL OF PAYMENT NOT REQUIRED. The taxation district treasurer shall make payments required under sub. (1) whether or not the governing body of the taxation district has approved those payments. Following a payment required sub. (1), the taxation district treasurer shall prepare and transmit a voucher for such payment to the governing body of the taxation district.

(3) RETURN OF TAX ROLL. After completing the settlement procedures required under sub. (1), the taxation district treasurer shall transfer the tax roll to the county treasurer as provided under s. 74.43 (1).

(4) AMOUNTS NOT TIMELY RECEIVED FORWARDED TO COUNTY TREASURER. The taxation district treasurer shall forward to the county treasurer all real property taxes, special assessments, special charges and special taxes received which were not settled for or retained for the taxation district.

NOTE: Subsection (1) (a) revises provisions of s. 74.03 (5) by requiring the taxation district treasurer to make a 2nd settlement with other taxing jurisdictions by February 15. [Section 74.03 (5) had required the treasurer to settle by the 15th day of each month after the March settlement date.] Subsection (1) (a) requires the taxation district treasurer to settle with other taxing jurisdictions on all amounts collected through the last day of the preceding month and all amounts received in the mail within 5 days of that date which are postmarked before midnight of that date. The paragraph does not continue the provisions of s. 74.03 (5) (d) 1 and 2, which required the taxation district treasurer to settle for the full amount due on state trust fund loans from borrowing units levying taxes on property within the taxation district. State trust fund loans will be settled for in proportion to the amount of the general property tax levy collected, as are other general property tax revenues due to taxing jurisdictions.

Subsection (1) (a) revises s. 74.03 (5) to state explicitly that collections of property taxes inadvertently omitted from the tax roll in prior years are to be retained by the taxation district treasurer for the taxation district. This requirement currently is contained in instructions to taxation district treasurers prepared by the department of revenue but is not specified in the

statutes. Lastly, sub. (1) (a) specifies the ways in which various occupational tax and private forest tax receipts are to be distributed. These instructions mirror the provisions on distribution in the statutes establishing these taxes.

Subsection (2) is new. It clarifies and emphasizes that settlement payments by the taxation district treasurer are to be made as required by statute and are not contingent on approval of the governing body of the taxation district. The voucher requirement ensures that the governing body is informed of settlement payments and that regular accounting procedures are followed.

**74.29 August settlement.** On or before August 15, the county treasurer shall pay in full to the proper treasurer all real property taxes and special taxes included in the tax roll which have not previously been paid to, or retained by, the proper treasurer. A county may, by resolution adopted by the county board, direct the county treasurer to pay in full to the proper treasurer all special assessments and special charges included in the tax roll which have not previously been paid to, or retained by, the proper treasurer.

NOTE: Counties are authorized, but not required, to settle in full with all taxing jurisdictions for special assessments and special charges.

**74.30 Settlement in certain taxation districts.** The treasurer of a taxation district which has enacted an ordinance under s. 74.12 shall settle under this section.

(1) FEBRUARY SETTLEMENT. On or before February 15, the taxation district treasurer shall do all of the following:

(a) Pay to the county treasurer all collections of special assessments or special charges levied under ch. 88.

(b) Pay to the proper treasurer all collections of special assessments, special charges and special taxes, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and managed forest land taxes under ch. 77 shall be settled for under pars. (e) to (h).

(c) Retain all collections of special assessments, special charges and special taxes due to the taxation district, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and managed forest land taxes under ch. 77 shall be settled for under pars. (e) to (h).

(d) Retain all collections of omitted property taxes under s. 70.44.

(e) Pay to the state treasurer all collections of occupational taxes on mink farms, 30% of collections of occupational taxes on iron ore concentrates and 10% of collections of occupational taxes on coal docks.

(f) Pay to the county treasurer 20% of collections of occupational taxes on coal docks, 20% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a) and all collections of payments for closed lands under s. 77.84 (2) (b).

(g) Retain for the taxation district all collections of occupational taxes on grain storage, scrap iron and steel and petroleum and petroleum products and 70% of collections of occupational taxes on iron ore concentrates and coal docks.

(h) Retain for the taxation district all woodland tax law collections under s. 77.16 and 80% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a).

(i) Pay in full to each taxing jurisdiction within the district all personal property taxes included in the tax roll which have not previously been paid to, or retained by, each taxing jurisdiction and, as part of that distribution, allocate to each tax incremental district within the taxation district its proportionate share of personal property taxes.

(j) Pay to each taxing jurisdiction within the district its proportionate share of real property taxes and, as part of that distribution, retain for the taxation district and for each tax incremental district within the taxation district its proportionate share of real property taxes.

(2) SUBSEQUENT SETTLEMENTS. On or before the 15th day of each month following the month in which an instalment payment of real property taxes is required by the ordinance, the taxation district treasurer shall do all of the following:

(a) Pay to the proper treasurer all collections of delinquent special assessments, special charges and special taxes not previously settled for, as directed by sub. (1) (a) to (h).

(b) Pay to each taxing jurisdiction within the district its proportionate share of real property taxes collected and, as part of that distribution, retain for the taxation district and for each tax incremental district within the taxation district its proportionate share of real property taxes.

(3) APPROVAL OF PAYMENT NOT REQUIRED. The taxation district treasurer shall make payments required under subs. (1) and (2) whether or not the governing body of the taxation district has approved those payments. Following a payment required under subs. (1) and (2), the taxation district treasurer shall prepare and transmit a voucher for that payment to the governing body of the taxation district.

**74.305 Settlement in certain taxation districts in populous counties.** The treasurer of a taxation district which has enacted an ordinance under s. 74.85 shall settle under this section.

(1) FEBRUARY SETTLEMENT. On or before February 15, the taxation district treasurer shall:

(a) Pay to the county treasurer all collections of special assessments or special charges levied under ch. 88.

(b) Pay to the proper treasurer all collections of special assessments, special charges and special taxes, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and managed forest land taxes under ch. 77 shall be settled for under pars. (e) to (h).

(c) Retain all collections of special assessments, special charges and special taxes due to the taxation district, except that occupational taxes under ss. 70.40 to 70.425 and forest cropland, woodland and man-

aged forest land taxes under ch. 77 shall be settled for under pars. (e) to (h).

(d) Retain all collections of omitted property taxes under s. 70.44.

(e) Pay to the state treasurer all collections of occupational taxes on milk farms, 30% of collections of occupational taxes on iron ore concentrates and 10% of collections of occupational taxes on coal docks.

(f) Pay to the county treasurer 20% of collections of occupational taxes on coal docks, 20% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a) and all collections of payments for closed lands under s. 77.84 (2) (b).

(g) Retain for the taxation district all collections of occupational taxes on grain storage, scrap iron and steel and petroleum and petroleum products and 70% of collections of occupational taxes on iron ore concentrates and coal docks.

(h) Retain for the taxation district all woodland tax law collections under s. 77.16 and 80% of collections of the taxes imposed under ss. 77.04 and 77.84 (2) (a).

(i) Pay in full to each taxing jurisdiction within the district all personal property taxes included in the tax roll which have not previously been paid to, or retained by, each taxing jurisdiction and, as part of that distribution, shall allocate to each tax incremental district within the taxation district its proportionate share of personal property taxes.

(j) Pay to each taxing jurisdiction within the district its proportionate share of real property taxes and, as part of that distribution, shall retain for the taxation district and for each tax incremental district within the taxation district its proportionate share of real property taxes.

(2) **SUBSEQUENT SETTLEMENTS.** On or before the 15th day of each month following the month in which an instalment payment of real property taxes is required by the ordinance, the taxation district treasurer shall:

(a) Pay to the proper treasurer all collections of delinquent special assessments, special charges and special taxes not previously settled for, as directed by sub. (1) (a) to (h).

(b) Pay to each taxing jurisdiction within the district its proportionate share of real property taxes collected and, as part of that distribution, shall retain for the taxation district and for each tax incremental district within the taxation district its proportionate share of real property taxes.

(3) **APPROVAL OF PAYMENT NOT REQUIRED.** The taxation district treasurer shall make payments required under subs. (1) and (2) whether or not the governing body of the taxation district has approved those payments. Following a payment required under subs. (1) and (2), the taxation district treasurer shall prepare and transmit a voucher for such payment to the governing body of the taxation district.

**74.31 Failure to settle timely.** If the taxation district treasurer or county treasurer does not settle as required under ss. 74.23 to 74.30 or 74.305:

(1) **INTEREST CHARGE.** The taxation district or county which has not settled shall pay 12% annual interest on the amount not timely paid to the governmental unit, including this state, to which money is due, calculated from the date settlement was required.

(2) **PENALTY.** The governmental unit, including this state, to which money is due may demand, in writing, payment from the taxation district or county which has not settled. If, within 3 days after receipt of a written demand, settlement is not made, the taxation district or county shall pay the governmental unit, including this state, making the demand a 5% penalty on the amount remaining unpaid.

NOTE: Based on s. 74.22. The provision has been extensively revised, as follows:

1. The provision is expanded to cover failure timely to settle with any governmental unit entitled to settlement proceeds by either the taxation district or the county. The current section covers only failure by a taxation district treasurer to settle with the county treasurer. In addition, any governmental unit to which money is due may trigger the penalty provision. Currently, only the county treasurer has the right to impose penalties. [See 74 OAG 84 (1905).]

2. The penalty distinction based on failure timely to settle and failure timely to settle after demand for settlement is made has been eliminated.

3. The penalty sanction is triggered by receipt of written demand for settlement.

4. Reference to payment of interest and penalty personally by the treasurer is eliminated.

5. The broadest possible term — governmental unit — has been used, to clarify that units such as the state and drainage districts are eligible for the interest and penalty.

The revised section reflects the special committee's conclusion that one, relatively simple, provision should govern failure timely to settle. This contrasts with current law, which contains several, unrelated provisions relating to failure timely to settle, some of which were archaic or of questionable constitutionality. In light of the revised section, the following sections of current ch. 74 have been deleted as unnecessary or archaic: ss. 74.22, 74.23, 74.24, 74.26 (3) and 74.27.

The revised section is not intended to be the exclusive remedy for failure timely to settle; other means of forcing payment may be available. For example, a *mandamus* action to compel payment will often be available. Further, intentional failure or refusal to settle may result in criminal sanctions under s. 946.12 (1).

#### SUBCHAPTER V ADJUSTMENT

**74.33 Rescission or refund of taxes by taxation district.** (1) **GROUND.** After the tax roll has been delivered to the treasurer of the taxation district under s. 74.03, the governing body of the taxation district may refund or rescind in whole or in part any general property tax shown in the tax roll, including agreed-upon interest, if:

(a) A clerical error has been made in the description of the property or in the computation of the tax.

(b) The assessment included real property improvements which did not exist on the date under s. 70.10 for making the assessment.

(c) The property is exempt by law from taxation, except as provided under sub. (2).

(d) The property is not located in the taxation district for which the tax roll was prepared.

(e) A double assessment has been made.

(f) Other obvious error has occurred.

(2) EXCEPTION. The governing body of a taxation district may not refund or rescind any tax under this section if the alleged error is solely that the assessor placed a valuation on the property that is excessive or that the property is exempt from taxation under s. 70.11 (21) (a) or (27).

(3) COMPENSATION FOR TAXATION DISTRICT. If taxes are refunded or rescinded under sub. (1), the governing body of the taxation district may proceed under s. 74.41.

(4) ALTERNATIVE PROCEDURE. As an alternative to proceeding under this section, the governing body of a taxation district may direct the assessor to proceed under s. 70.43.

NOTE: Subsection (1) restates s. 74.135 (1) to (6). However, it replaces s. 74.135 (6) with par. (f), which allows a taxation district to refund or rescind taxes if "other obvious error has occurred". The intent of the committee in making this change is to authorize a taxation district to refund or rescind taxes in an error resembling those enumerated in pars. (a) to (e) has been made, but the error is not precisely as described in any of these paragraphs. Current s. 74.135 (6) is ambiguous because, under s. 70.43, "palpable error" is defined as those errors enumerated in s. 74.135 (1) to (5), and, therefore, sub. (6) by referring back to the procedure under s. 70.43 was arguably circular.

Subsection (2) is new. Board of review procedures under s. 70.47 are the appropriate method for dealing with assessment disputes. The department of revenue reviews claims that property is exempt under s. 70.11 (21) (a) and (27) (industrial waste treatment plants and pollution abatement equipment, and manufacturing machinery and processing equipment, respectively).

Subsection (3) is new. It authorizes a taxation district which refunds or rescinds taxes under this section to use the charge-back procedure under s. 74.41, if applicable, to collect from other taxing jurisdictions a portion of the amount refunded.

Subsection (4) clearly states an alternative that was implied by s. 74.135 (6), when a palpable error was made in an assessment. Instead of providing a refund of taxes paid or a rescission of taxes levied, sub. (4) allows the taxation district to elect to use the assessment adjustment procedure under s. 70.43 and provide a tax credit on the subsequent year's tax roll.

**74.35 Recovery of unlawful taxes.** (1) DEFINITIONS. In this section "unlawful tax" means a general property tax with respect to which one or more errors specified in s. 74.33 (1) (a) to (f) were made. "Unlawful tax" does not include a tax in respect to which the alleged defect is solely that the assessor placed a valuation on the property that is excessive.

(2) CLAIM AGAINST MUNICIPALITY. (a) A person aggrieved by the levy and collection of an unlawful tax assessed against his or her property may file a claim to recover the unlawful tax against the taxation district which collected the tax.

(b) A claim filed under this section shall meet all of the following conditions:

1. Be in writing.

2. State the alleged circumstances giving rise to the claim, including the basis for the claim as specified in s. 74.33 (1) (a) to (e).

3. State as accurately as possible the amount of the claim.

4. Be signed by the claimant or his or her agent.

5. Be served on the clerk of the taxation district in the manner prescribed in s. 801.11 (4).

(3) ACTION ON CLAIM. (a) In this subsection, to "disallow" a claim means either to deny the claim in whole or in part or to fail to take final action on the claim within 90 days after the claim is filed.

(b) The taxation district shall notify the claimant by certified or registered mail whether the claim is allowed or disallowed within 90 days after the claim is filed.

(c) If the governing body of the taxation district determines that an unlawful tax has been paid and that the claim for recovery of the unlawful tax has complied with all legal requirements, the governing body shall allow the claim. The taxation district treasurer shall pay the claim not later than 90 days after the claim is allowed.

(d) If the taxation district disallows the claim, the claimant may commence an action in circuit court to recover the amount of the claim not allowed. The action shall be commenced within 90 days after the claimant receives notice by certified or registered mail that the claim is disallowed.

(4) INTEREST. The amount of a claim filed under sub. (2) or an action commenced under sub. (3) may include interest computed from the date of filing the claim against the taxation district, at the rate of 0.8% per month.

(5) LIMITATIONS ON BRINGING CLAIMS. (a) Except as provided under par. (b), a claim under this section shall be filed by January 31 of the year in which the tax is payable.

(b) A claim under this section for recovery of taxes paid to the wrong taxation district shall be filed within 2 years after the last date specified for timely payment of the tax under s. 74.11, 74.12, 74.85 or 74.87.

(c) No claim may be filed or maintained under this section unless the tax for which the claim is filed, or any authorized instalment payment of the tax, is timely paid under s. 74.11, 74.12, 74.85 or 74.87.

(d) No claim may be made under this section based on the contention that the tax was unlawful because the property is exempt from taxation under s. 70.11 (21) (a) or (27).

NOTE: Revises s. 74.73 (1g) to (3), relating to the recovery of an unlawful tax.

Subsection (1), first sentence, restates s. 74.73 (1g). The 2nd sentence of sub. (1), expressly stating that an unlawful tax does not include a tax in respect to which the alleged defect is solely that the assessor placed an excessive valuation on the

property, is new but resembles the first clause of current s. 74.73 (4). Claims and actions for excessive valuations are given separate treatment under s. 74.37 of this draft.

Subsection (2) (a) restates the first sentence of s. 74.73 (1r). Subsection (2) (b) is new. It specifically states the procedural requirements for filing a claim.

Subsection (3) establishes the procedure for handling a claim. Paragraph (a) clearly states that failure to act constitutes disallowance. Under par. (b), the taxation district must act within 90 days after the claim is filed or the claim is considered disallowed. This will ensure timely action by the taxation district and provide certainty to the proceedings. Paragraph (c) revises the 2nd sentence of s. 74.73 (1r); it also sets a 90-day payment requirement if a claim is allowed. Lastly, par. (d) revises that portion of current s. 74.73 (1r) relating to actions in court following disallowance of claims for unlawful taxes levied by taxation districts. The revision consists of providing that an action shall be commenced within 90 days after notification by the taxation district that the claim is not allowed in full. Under current s. 74.73 (1r), an action in court is required to be brought within one year after the unlawful payment is made. It appears more logical to tie the timing of the court action to the completion of the claims procedure against the taxation district.

Subsection (4) revises the last part of the 3rd sentence of s. 74.73 (1r) by increasing the interest rate from 5% to 9.6% annually. Subsection (4) also reverses the effect of the supreme court's ruling in *Family Hospital Nursing Home, Inc. v. City of Milwaukee*, 78 Wis. 312, 254 N.W. 2d 268 (1977), that the computation of interest in cases involving a tax which is void *ab initio* begins from the date of payment, rather than from the date of the claim. The special committee concluded that for purposes of computing interest no distinction should be made between claims involving taxes void *ab initio* and claims involving other unlawful taxes.

Subsection (5) (a):

1. Revises s. 74.73 (1r) by providing that a claim under the subsection must be filed by January 31 of the year in which the tax must be paid. This change is in response to the interpretation of the current provision by the supreme court in *Waukesha Development Corp. v. City of Waukesha*, 10 Wis. 2d 621, 103 N.W. 2d 668 (1960). In that decision, the court held that a claim must be brought within one year after each payment. Thus, a taxpayer who files a claim under s. 74.73 within one year after the 2nd instalment payment of taxes but more than one year after the date of the first instalment payment may not recover the amount of the first instalment payment. Because it appears that applying a one-year statute of limitations to each instalment payment of an annual amount of taxes is unnecessarily confusing to the taxpayer, sub. (5) (a) establishes a rule that a claim under this section must be filed by January 31 of the year in which the tax must be paid.

2. Revises that part of s. 74.73 (1m) which provides that if there is a final judicial determination that a property tax collected was void from the first assessment, any recovery of money shall be limited to taxes collected on the basis of the 7 immediately preceding annual assessments. A tax is void from the first assessment if the taxation district does not have jurisdiction to levy the tax, either because the property is tax exempt or because the property is not located within the taxation district. [*Family Hospital Nursing Home, Inc. v. City of Milwaukee, supra.*] Subsection (5) (a) revises s. 74.73 (1m) by stating that, except as provided in sub. (5) (b), the same one-year statute of limitations applies to all claims for recovery of unlawful taxes, which includes claims for recovery of taxes paid upon tax exempt property.

Subsection (5) (b) further revises s. 74.73 (1m) by providing that a claim for recovery of taxes paid to the wrong taxation district must be filed within 2 years after the last date specified for timely payment of the tax. The 2-year statute of limitations is consistent with revised s. 70.44 of the statutes, which

authorizes a taxation district to impose a tax on property omitted from assessment in any of the 2 immediately preceding years.

Subsection (5) (c) is new. It provides that taxes for which a claim is made under this section must be paid as they become due.

Subsection (5) (d) is new. It provides that no claim may be made under this section based on the assertion that property was exempt from taxation under s. 70.11 (21) (a) or (27) (industrial waste treatment plants and pollution abatement equipment, and manufacturing machinery and processing equipment, respectively).

As part of the revision of s. 74.73, subs. (2), (2m) and (3) are not continued.

Section 74.73 (2) allows a taxation district which pays a claim to recover an unlawful tax to recover the tax paid to the county treasurer from the state tax, county tax and metropolitan sewerage area debt retirement tax and to recover the district's proportionate share of the expenses of defending a lawsuit to recover an unlawful tax. Recovery of these "charge-backs" is treated in new s. 74.41, establishing a general charge-back procedure for recovering from taxing jurisdictions their share of taxes refunded or rescinded.

Section 74.73 (2m), providing that no claim may be allowed and no action maintained under s. 74.73 unless it appears that the plaintiff has paid more than his or her "equitable share" of such taxes is not continued because it is vague and redundant.

Section 74.73 (3), providing a procedure for a person who pays property taxes on personal property which is exempt from property taxation because it is subject to an occupational tax, is not continued because it is unnecessary. Those claims may be brought under the general provisions of new s. 74.35.

**74.37 Claim on excessive assessment.** (1) **DEFINITION.** In this section, a "claim for an excessive assessment" or an "action for an excessive assessment" means a claim or action, respectively, by an aggrieved person to recover that amount of general property tax imposed because the assessment of property was excessive.

(2) **CLAIM AGAINST TAXATION DISTRICT.** (a) A claim for an excessive assessment may be filed against the taxation district which collected the tax.

(b) A claim filed under this section shall meet all of the following conditions:

1. Be in writing.
2. State the alleged circumstances giving rise to the claim.
3. State as accurately as possible the amount of the claim.
4. Be signed by the claimant or his or her agent.
5. Be served on the clerk of the taxation district in the manner prescribed in s. 801.11 (4) by January 31 of the year in which the tax based upon the contested assessment is payable.

(3) **ACTION ON CLAIM.** (a) In this subsection, to "disallow" a claim means either to deny the claim in whole or in part or to fail to take final action on the claim within 90 days after the claim is filed.

(b) The taxation district shall notify the claimant by certified or registered mail whether the claim is allowed or disallowed within 90 days after the claim is filed.

(c) If the governing body of the taxation district determines that a tax has been paid which was based on an excessive assessment, and that the claim for an excessive assessment has complied with all legal requirements, the governing body shall allow the claim. The taxation district treasurer shall pay the claim not later than 90 days after the claim is allowed.

(d) If the taxation district disallows the claim, the claimant may commence an action in circuit court to recover the amount of the claim not allowed. The action shall be commenced within 90 days after the claimant receives notice by registered or certified mail that the claim is disallowed.

(4) CONDITIONS. (a) No claim or action for an excessive assessment may be brought under this section unless the procedures for objecting to assessments under s. 70.47, except under s. 70.47 (13), have been complied with. This paragraph does not apply if notice under s. 70.365 was not given.

(b) No claim or action for an excessive assessment may be brought or maintained under this section unless the tax for which the claim is filed, or any authorized instalment of the tax, is timely paid under s. 74.11, 74.12, 74.85 or 74.87.

(c) No claim or action for an excessive assessment may be brought or maintained under this section if the assessment of the property for the same year is contested under s. 70.47 (13) or 70.85. No assessment may be contested under s. 70.47 (13) or 70.85 if a claim is brought and maintained under this section based on the same assessment.

(5) INTEREST. The amount of a claim filed under sub. (2) or an action commenced under sub. (3) may include interest computed from the date of filing the claim against the taxation district, at the rate of 0.8% per month.

(6) EXCEPTION. This section does not apply in counties with a population of 500,000 or more or in counties which have adopted a county assessor system.

NOTE: Revises and expands upon s. 74.73 (4).

Subsection (1) is new.

Subsections (2) and (3) restate the thrust of current s. 74.73 (4) and establish the procedure for handling a claim. The procedure is similar to that of revised s. 74.35 (2) and (3). See the NOTE to that section.

Subsection (4) (a) reflects the interpretation of s. 74.73 (4) by the supreme court in *Pelican Amusement Co. v. Town of Pelican* 13 Wis. 2d 585, 109 N.W. 2d 82 (1961) and *Fontana v. Village of Fontana-On-Geneva Lake* 69 Wis. 2d 736, 233 N.W. 2d 349 (1975). Subsection (4) (b) replaces the requirement of s. 74.73 (4) that all taxes be paid by January 10 in order to file or maintain a claim with a provision that allows a taxpayer to file or maintain a claim as long as no payments are delinquent under s. 74.11. Subsection (4) (c) is new. It prohibits a taxpayer from pursuing a claim or action under this section if the assessment is appealed under s. 70.47 (13) or 70.85 and vice-versa.

Subsection (4) does not continue the requirement of s. 74.73 (4), as interpreted by the supreme court in *Waukesha Development Corp. v. City of Waukesha*, 10 Wis. 2d 621, 103 N.W. 2d 668 (1960) [citing *State ex rel. City of Sheboygan v. County*

*Board of Supervisors of Sheboygan County*, 194 Wis. 456, 216 N.W. 144 (1928)], that a taxpayer pay his or her taxes "under protest" in order to file a claim under this section.

Subsection (5) establishes an interest rate of 9.6% on claims, rather than the 5% legal rate of s. 74.73 (1r).

Subsection (6) continues the statement in current s. 74.73 (4) that these claim procedures do not apply to Milwaukee county or to any counties that have a county assessor system (currently only Kenosha county).

**74.39 Court-ordered reassessment.** (1) COURT MAY ORDER. Except as provided in sub. (3), in any action under s. 74.35 (3) or 74.37 (3), if the court determines that a reassessment of the property upon which the taxes were paid is necessary, the court, before entering judgment, shall continue the action to permit reassessment of the property. If, based on the reassessment, the court determines that the amount of taxes paid by the plaintiff is not excessive, judgment shall be entered for the defendant. If, based on the reassessment, the court determines that the amount of taxes paid by the plaintiff is excessive, judgment shall be entered for the plaintiff for the amount of the excessive taxes paid.

(2) CHALLENGE OF REASSESSMENT. The validity of a reassessment under sub. (1) may be challenged under s. 75.54. A reassessment under s. 75.54 shall be made by the assessor of the assessment district in which the property to be reassessed is located.

(3) EXCEPTION. The court may proceed to judgment without ordering a reassessment under sub. (1), if the court finds that to do so is in the best interests of all parties to the action and if the court is able to determine the amount of unlawful taxes with reasonable certainty.

NOTE: Revises s. 74.74 by clarifying the section's relationship to new ss. 74.35 and 74.37.

**74.41 Charge back of refunded or rescinded taxes.**

(1) SUBMISSION OF REFUNDED OR RESCINDED TAXES TO DEPARTMENT. By October 1 of each year, the clerk of a taxation district may submit to the department of revenue, on a form prescribed by the department of revenue, a listing of all general property taxes on the district's tax roll which, subject to sub. (2), meet any of the following conditions:

(a) Have been refunded to taxpayers under s. 70.511.

(b) Have been rescinded or refunded to taxpayers under s. 74.33.

(c) Have been refunded to taxpayers under s. 74.35 or 74.37.

(2) AMOUNT REQUIRED FOR SUBMISSION. A refunded or rescinded tax may be included on a form submitted under sub. (1) only if one of the following applies:

(a) The refunded or rescinded tax together with all other refunded or rescinded taxes which are levied for the same year and which are listed on the same form totals at least \$5,000.

(b) The refunded or rescinded tax for any single description of property in the tax roll for any one year is \$500 or more.

(3) **EFFECT ON EQUALIZED VALUE DETERMINED.** The department of revenue shall, by the November 15 following submission of the form under sub. (1), determine the amount of the reduction, if any, in the equalized valuation of the taxation district resulting from a consideration of the valuation represented by the refunded or rescinded taxes. The determination of the department of revenue under this subsection is reviewable only under s. 227.53.

(4) **AMOUNT OF CHARGE-BACK DETERMINED.** If the department of revenue determines under sub. (3) that the equalized value of the taxation district is reduced as a result of consideration of the valuation represented by the refunded or rescinded taxes, the department of revenue shall do one of the following:

(a) Adjust the equalized value of the taxation district under s. 70.57.

(b) Determine the amount of rescinded or refunded taxes to be charged back to, and collected from, each taxing jurisdiction for which taxes were collected by the taxation district. The amount determined may not include any charge for interest.

(5) **NOTICE AND PAYMENT.** (a) The department of revenue shall certify to the clerk of the taxation district the amount determined under sub. (4) (a) or (b) and shall furnish a copy of the certification to each affected taxing jurisdiction.

(b) Each taxing jurisdiction for which an amount is determined under sub. (4) (b) shall pay the amount certified under par. (a) to the taxation district treasurer by February 15 of the year following the determination under sub. (3).

(6) **NO EFFECT ON MILL RATE LIMITS.** A tax levied by a taxation jurisdiction to fund an amount which the taxing jurisdiction is required to pay under sub. (5) shall not be considered in determining whether the taxing jurisdiction is in compliance with any statutorily imposed mill rate limit.

**NOTE:** New. Replaces the procedures under ss. 70.511 (2) (b) and 74.73 (2) with a single procedure whereby a taxation district that refunds or rescinds general property taxes may recover, from other taxing jurisdictions which levied the tax, their proportionate share of the amount of the tax refunded or rescinded. Because of the administrative costs of using the procedure established by this section, the special committee determined that a taxation district may seek recovery under this section only if the taxes refunded or rescinded exceed the threshold amounts in sub. (2).

The special committee also determined that a taxation district should be authorized to recover under this section only if the equalized value of the taxation district would have been reduced, if the valuation represented by the refunded or rescinded taxes had not been included in the equalized value. If the equalized value of the taxation district was not affected by the valuation represented by the refunded or rescinded taxes, recovery under this section is not appropriate because taxpayers residing in that taxation district paid no more of the tax levies of overlying taxing jurisdictions than they would have paid had no refund or rescission of taxes occurred.

**74.42 Charge back of personal property taxes; subsequent distributions.** (1) **CHARGE BACK.** As part of the February settlement required by ss. 74.25 and 74.30,

the taxation district treasurer shall charge back to each taxing jurisdiction within the taxation district its proportionate share of those personal property taxes for which the taxation district settled in full the previous February, which were delinquent at the time of settlement, which have not been collected in the intervening year and which remain delinquent.

(2) **SUBSEQUENT DISTRIBUTIONS.** Any delinquent personal property taxes charged back under sub. (1) which are subsequently collected by the taxation district shall be proportionately distributed to each taxing jurisdiction to which the delinquent taxes were charged back under sub. (1). Distributions under this subsection shall be made on May 15, August 15, November 15 and February 15.

#### SUBCHAPTER VI

#### RETURN AND COLLECTION OF DELINQUENT TAXES

**74.43 Return of unpaid taxes, special assessments and special charges.** (1) **DELIVERY OF TAX ROLL.** Except as provided in s. 74.12, on or before February 15, the taxation district treasurer, except the treasurer of a taxation district with an ordinance under s. 74.85 or the treasurer of a city authorized to act under s. 74.87, shall transfer the tax roll to the county treasurer. The tax roll transferred to the county treasurer shall meet all of the following conditions:

(a) Contain all information required under s. 70.65 (2) (a) to (d) and (f).

(b) Conform with the format required by the department of revenue under s. 70.09 (3).

(c) Reflect all payments received by the taxation district treasurer.

(2) **CORRECTION OF PROPERTY DESCRIPTION.** If the county treasurer discovers any error or inadequacy in the description of any property in the tax roll, he or she may correct the description in the tax roll at any time prior to issuance of the tax certificate under s. 74.57. If the county treasurer corrects a description of property, he or she shall keep a record identifying the place where each correction is made, briefly describing the correction and specifying the date when the correction was made.

(3) **COUNTY TREASURER TO ACCEPT UNPAID TAXES.** If the roll is delivered under sub (1), the county treasurer shall accept all unpaid real property taxes, special assessments, special charges and special taxes contained in the tax roll.

**NOTE:** Revises s. 74.17 by eliminating the requirement that the county treasurer prepare a separate statement of delinquent taxes, charges and assessments which have been returned by the taxation district treasurer. The special committee concluded that the requirement of a separate statement is unnecessary because the information is contained in the tax roll. In addition, the treasurer may correct a property description in the tax roll before the tax certificate is issued, rather than before giving notice of issuance of the tax certificate. This reflects the revised procedure for issuance and notice of the tax certificate under new ss. 74.57 and 74.59.

Reference to the required content and format of the tax roll is repeated in this section for emphasis.



**74.45 Certificate of delinquent taxes; endorsement of treasurer's bond.** (1) **CERTIFICATE OF DELINQUENT TAXES BY COUNTY TREASURER.** After the taxation district treasurer transfers the tax roll under s. 74.12, 74.305 or 74.43, the county treasurer shall prepare a certificate of the amount that is delinquent on real property and the amount that is not delinquent but payable in subsequent instalments on real property and the amount of delinquent special assessments, special charges and special taxes.

(2) **ENDORSEMENT OF TAXATION DISTRICT TREASURER'S BOND.** After the taxation district treasurer has fulfilled the requirements for settlement with the county under s. 74.25, 74.30 or 74.305, the county treasurer if requested to do so, shall endorse the bond of the taxation district treasurer executed under s. 70.67 (1) as satisfied and paid. The endorsement fully discharges the taxation district treasurer and his or her sureties from the obligations of the bond, unless the return of the taxation district treasurer under s. 74.43 is false. If the return is false, the bond continues in force and the taxation district treasurer and his or her sureties are subject to action upon the bond for all deficiencies and damages resulting from the false return.

NOTE: Subsection (1) revises s. 74.20 by eliminating as unnecessary and archaic the requirements that the certificate of delinquent balances be furnished by the county treasurer to the taxation district treasurer and county clerk.

Subsection (2):

- a. Revises s. 74.21 to attain consistency with new sub. (1).
- b. Clarifies that the bond being referred to is the bond executed under s. 70.67, stats.
- c. Revises s. 74.21 by requiring the county treasurer to endorse the bond executed under s. 70.67 only upon request. The special committee learned that in some counties the endorsement is not done because it is not required by the bond.

**74.47 Interest and penalty on delinquent amounts.**

(1) **INTEREST.** The interest rate on delinquent general property taxes, special charges, special assessments and special taxes included in the tax roll for collection is one percent per month or fraction of a month.

(2) **PENALTY ALLOWED.** (a) Any county board and the common council of any city authorized to act under s. 74.87 may by ordinance impose a penalty of up to 0.5% per month or fraction of a month, in addition to the interest under sub. (1), on any delinquent general property taxes, special assessments, special charges and special taxes included in the tax roll.

(b) Any ordinance enacted under par. (a) may specify that the penalty under this subsection shall apply to any general property taxes, special assessments, special charges and special taxes that are delinquent on the effective date of the ordinance.

(3) **DISTRIBUTION.** (a) All interest and penalties collected by the county treasurer on payments of real property taxes and special taxes shall be retained by the county treasurer for the county.

(b) All interest and penalties on payments of delinquent special assessments and special charges collected by the county treasurer of a county which settles for unpaid special assessments and special charges under s. 74.29 shall be retained by the county treasurer for the county.

(c) All interest on payments of delinquent special assessments and special charges collected by the county treasurer of a county which does not settle for unpaid special assessments and special charges under s. 74.29 shall, along with the delinquent amounts that have been paid, be paid to the taxing jurisdiction which assessed the special assessment or special charge as follows:

1. If collected on or before July 31, as part of the settlement under s. 74.29.
2. If collected after July 31 and before issuance of the tax certificate under s. 74.57, on or before September 15.

(d) All interest and penalties on delinquent general property taxes, special assessments, special charges and special taxes collected on or before July 31 by the treasurer of a taxation district which has enacted an ordinance under s. 74.12 shall be retained by the taxation district treasurer for the taxation district.

(e) All interest and penalties on payments of delinquent personal property taxes collected by the taxation district treasurer shall be retained by the taxation district treasurer for the taxation district.

(f) All penalties on payments of delinquent special assessments and special charges collected by the county treasurer of a county which does not settle for unpaid special assessments and special charges shall be retained by the county treasurer for the county.

NOTE: Revises s. 74.80 and portions of s. 74.03. Subsections (1) and (2) revise s. 74.80 to:

1. Explicitly extend the interest and penalty provisions to special charges and special taxes included on the tax roll for collection. Under current s. 74.80, only general property taxes and special assessments are subject to interest and penalty.
2. Authorize counties, rather than cities, villages and towns, to impose penalties on delinquent personal property taxes.
4. Eliminate the reference to "overdue taxes" because overdue taxes are delinquent under s. 74.11.
5. Eliminate the reference to "January 1, 1982" as no longer necessary.

**74.49 Payment of delinquent taxes in instalments.**

(1) **INSTALMENTS ALLOWED.** Real property taxes returned to the treasurer as delinquent under s. 74.43, and special assessments, special charges and special taxes returned to the treasurer of a city authorized to proceed under s. 74.87 or to the treasurer of a county having a population of 500,000 or more, may be paid to the treasurer in partial payments of not less than \$20, unless the treasurer agrees to accept a lower amount.

(2) **PRINCIPAL AND INTEREST.** (a) The treasurer shall determine that portion of a partial payment to be applied as principal by dividing the amount of the par-

tial payment by a figure which is the sum of one plus a figure which is the product of the number of months of delinquency, as determined under s. 74.11 or 74.12:

1. Times 0.01, if the county has not imposed a penalty under s. 74.47 (2); or
2. Times a decimal which reflects the applicable percentage, if the county has imposed a penalty under s. 74.47 (2).

(b) The amount of the payment that is in excess of the amount of principal determined under par. (a) is the interest and penalty accrued from the date of the delinquency on the amount of the partial payment which is principal. After any partial payment is made, subsequent determinations of interest and penalty shall be computed only on the unpaid balance of the principal, from the date of the delinquency as determined under s. 74.11 or 74.12.

NOTE: It is not intended that acceptance of partial payments under this section delays the availability of any remedies a county has to collect the delinquent tax, including sale of property.

**74.51 Discharge of delinquent taxes.** (1) **PAYMENT TO DISCHARGE DELINQUENCY.** Any person may, at any time before issuance of a tax certificate under s. 74.57, discharge delinquent real property taxes, special assessments, special charges or special taxes on real property by paying the delinquent amounts, together with interest and any penalty provided under s. 74.47 (2).

(2) **RECEIPTS FOR TAXES PAID.** After a payment is made under sub. (1), the treasurer shall execute duplicate receipts showing the name of the person making the payment, the date of the payment, the description of the property upon which the payment was made and the amount paid. One copy of the receipt shall be delivered to the person making the payment and the other copy filed in the treasurer's office.

NOTE: Revises s. 74.32 as follows:

1. Makes the provision applicable to real property. Current section 74.32 is applicable only to "parcels of land".

2. Expands the scope of the provision to include discharge of delinquent special assessments, special charges and special taxes, in addition to discharge of delinquent real property taxes.

3. Eliminates application of the provision to payment of taxes on "any part or undivided share" of property. The elimination reflects 2 primary concerns:

a. The administrative problems and, in many instances, the essentially legal issues which payment on a part or undivided share presents to the taxation district or county treasurer.

b. The potential that payment on a part or undivided share may effectively result in a partition of property if delinquencies are discharged on only a part and title to the remainder of the property is ultimately transferred to the county. The special committee concluded that subdivision of property should not occur as a result of the tax delinquency enforcement process. Elimination of this portion of s. 74.32 is also consistent with the discontinuation of s. 74.06, which allowed payment of taxes on parts and undivided shares of property.

**74.53 Personal liability for delinquent taxes and other costs.** (1) **RECOVERY OF TAXES AND COSTS AGAINST PERSONS.** Except as provided in subs. (3) and

(5), a county or a city authorized to act under s. 74.87 may bring a civil action against a person to recover any of the following amounts that are included in the tax roll for collection:

(a) Delinquent real property taxes, special charges, special assessments and special taxes that were delinquent during the period that the person owned the property.

(b) The cost of razing property incurred under s. 66.05 (2), (5) or (8) (bg) or of filling an excavation incurred under s. 66.05 (6) if the person owned the property when the property was razed or the excavation was filled.

(c) The cost of abating a public nuisance under s. 823.04 or 823.22 if the person owned the property when the public nuisance was abated.

(2) **COOWNER LIABILITY.** Coowners of property are jointly and severally liable for the payment of real property taxes, assessments or costs collectible under sub. (1).

(3) **LIMITATION.** A county or a city authorized to act under s. 74.87 may not proceed against any person under this section unless the property against which the amounts are levied in the tax roll is included in a tax certificate issued under s. 74.57 and the fair market value of the property is less than the amounts owed plus interest and penalties.

(4) **RECOVERY LIMITED.** A county or a city authorized to act under s. 74.87 which proceeds against a property owner under this section may not recover more than the amount owed plus interest and penalties.

(5) **PRIOR APPROVAL.** No action may be commenced under sub. (1) unless it is approved by the county board or a common council of a city authorized to act under s. 74.87. The clerk shall mail, to the last-known address of the person against whom an action is proposed to be commenced, advance written notice of the time and place the county board will meet to consider approval of legal action.

(6) **ACTION BY TAXING JURISDICTION.** A taxing jurisdiction may bring a civil action against a person to recover delinquent special assessments and special charges levied by it for which the county or city authorized to act under s. 74.87 did not settle in full under s. 74.29 or which were not fully paid by proceeds distributed under s. 75.05 or 75.36. Any amount recovered in an action under this subsection shall be reported to the county or city treasurer, who shall subtract it from the amount owed for purposes of sub. (4).

**74.55 Action to collect delinquent personal property taxes.** (1) **CIVIL ACTION.** Delinquent personal property taxes, together with any interest and penalty under s. 74.47, may be recovered by the taxation district in a civil action, including an action under ch. 799, if the action is brought within 6 years after the January 1 of the year in which the taxes are required to be paid.

(2) **CERTAIN PROPERTY NOT EXEMPT FROM EXECUTION.** In a proceeding to enforce a judgment rendered in an action under this section to recover delinquent personal property taxes, the personal property on which the taxes were delinquent is not exempt from execution under s. 815.18.

NOTE: Based upon the first 2 clauses of s. 74.30 (2). The time period for bringing an action under this section is linked to January 1 of the year the taxes were due, rather than the time when the taxes are returned as delinquent, for greater certainty. The remaining provisions of s. 74.30 (2), which relate to supplementary proceedings on judgments, are deleted as unnecessary.

Other provisions of prior law related to delinquent personal property taxes — s. 74.29 (1), relating to compilation of a schedule of delinquent taxes, and ss. 74.29 (2) and 74.30 (1), creating a warrant and execution procedure — have not been continued. These provisions appear archaic and are of doubtful constitutionality.

Sections 74.10, 74.11 and 74.12, relating to other procedures to collect delinquent personal property taxes, are not continued. These sections are contradictory, duplicative and, in some cases, archaic and of doubtful constitutionality.

## SUBCHAPTER VII

### ISSUANCE OF TAX CERTIFICATE

**74.57 Issuance of tax certificate.** (1) **ISSUANCE.** Annually, on August 15, the county treasurer shall issue to the county a tax certificate which includes all parcels of real property included in the tax roll for which real property taxes, special charges, special taxes or special assessments remain unpaid.

(2) **EFFECT.** (a) Issuance of a tax certificate commences the redemption period on all real property included in the tax certificate unless s. 74.59 (2) applies.

(b) Two years after the issuance of the tax certificate, unless s. 74.59 (2) or 75.03 applies, the county is entitled, as to any property included in the tax certificate which has not been redeemed, to do any of the following:

1. Take a tax deed under s. 75.14.
2. Commence an action to foreclose the certificate under s. 75.19.
3. Commence an action to foreclose the tax lien represented by the certificate under s. 75.521.

(3) **CERTIFICATE NOT TRANSFERABLE.** The county may not sell, assign, or otherwise transfer a tax certificate.

(4) **FORM.** (a) The tax certificate shall group by taxation district all parcels for which real property taxes, special assessments, special charges or special taxes remain unpaid.

(b) Unless it is issued by a city authorized to act under s. 74.87, the tax certificate shall:

1. Contain a legal description of each parcel of property.
2. For each parcel, state the amount of the unpaid real estate taxes, special assessments, special charges or special taxes and the date from which the interest and any penalty accrue.

3. State the earliest date upon which the county may be entitled to a tax deed or equivalent evidence of title.

(c) The format of the tax certificate shall be prescribed by the department of revenue under s. 70.09 (3).

(d) If a parcel of property is redeemed after the tax certificate is issued, the date on which the property was redeemed shall be noted on the certificate, together with the amount for which the property was redeemed.

(5) **CERTAIN LANDS EXEMPT.** This section does not apply to public lands held on contract, lands mortgaged to the state or lands subject to s. 74.65.

NOTE: Eliminates the procedure for the "sale of land" on which real property taxes, special assessments, special charges or special taxes are delinquent. Under previous law (s. 74.44 (1), first sentence) the county board could authorize the county treasurer to bid in all such lands with the county as purchaser for the amounts remaining unpaid, rather than opening the bidding process to the public. In practice, it appears that all counties have adopted this option. Therefore, in recognition of current practice and in order to simplify the delinquent tax collection procedure, the sale procedure is eliminated and a single tax certificate is automatically issued to the county.

Subsection (1) sets forth the new procedure. The tax certificate is issued on a date certain (August 15), reflecting the new procedure's provision for automatic issuance of a master tax certificate to the county. August 15 is the final settlement date under new s. 74.29. Also a parcel will be included in the tax certificate only in the year of the initial delinquency. Amounts delinquent in subsequent years will be attached to the certificate, which is current practice under s. 75.01, if the county holds the certificate.

Subsection (2) articulates the effect of issuance of a tax certificate and the consequences of nonredemption. The period of redemption, 3 years under current s. 74.46 (1) (a), is shortened to 2 years.

Subsection (4) is new. It states the contents of the tax certificate.

Subsection (5) restates the exception in s. 74.33 (1) for public lands held on contract and lands mortgaged to the state.

This section replaces the following provisions of current law: ss. 74.38 to 74.42, the first sentence of s. 74.44, ss. 74.45 and 74.46 and the references to purchasing at tax sales and purchasing tax certificates in s. 74.50.

**74.59 Notice of issuance of tax certificate** (1) **NOTICE OF ISSUANCE OF TAX CERTIFICATE.** (a) Within 90 days after issuance of the tax certificate under s. 74.57, the county treasurer shall mail a notice to each owner of record, as shown in the tax roll, of property included in the certificate for which real property taxes, special assessments, special charges or special taxes remain unpaid as of the date the notice is mailed. Unless it is issued by a city authorized to act under s. 74.87, the notice shall state all of the following:

1. That real property taxes, special assessments, special charges or special taxes remain unpaid as of the date of mailing on property which the tax roll shows is owned by the addressee.

2. That the records showing the delinquency under subd. 1 are available for inspection in the treasurer's office.

3. That, on the previous August 15, a tax certificate was issued to the county for all property for which real property taxes, special assessments, special charges or special taxes remained unpaid as of that date.

4. That failure to pay the delinquent real property taxes, special charges, special taxes or special assessments will result in eventual transfer, no earlier than 2 years after issuance of the tax certificate, of the ownership of the property to the county.

(b) The format of the notice under this subsection shall be prescribed by the department of revenue under s. 70.09 (3).

(2) NOTICE NOT TIMELY MAILED. If a treasurer fails to mail the notice required under sub. (1), the notice may be mailed later and the 2-year period of redemption commences on the date of the mailing.

(3) AFFIDAVIT OF MAILING. After completing the mailing under sub. (1) or (2), the treasurer, except the treasurer of a city authorized to proceed under s. 74.87, shall sign an affidavit attesting that the treasurer has complied with the mailing requirements under this section. The affidavit shall do all of the following:

(a) Identify the property owners and the addresses to which the notice was mailed.

(b) Contain a description of each parcel of property, as shown on the tax certificate, for which a notice was mailed.

(c) State the amount of unpaid real property taxes, special assessments, special charges or special taxes for each description of property included under par. (b).

(4) EFFECT OF NOT RECEIVING NOTICE. Failure of a person to receive a notice under this section does not affect the ability of a county or city to acquire ownership of property for which a tax certificate has been issued.

NOTE: New. Requires mailed notice to delinquent property taxpayers that a tax certificate has been issued which includes their property. Subsections (1) and (2) replace ss. 74.33 and 74.345, which require notice by publication before tax-delinquent land was sold and a tax certificate issued.

Subsection (1) sets forth the general notice requirement and the required content of the notice. The special committee questioned the effectiveness of the current notice-by-publication requirement of s. 74.33, both as to whether the notice reached its intended audience and whether it communicated its intended message. To address the former concern, the special committee recommended the mailing requirement. To address the latter concern, the special committee recommended deleting the statutory notice form, statutorily specifying the general content of the notice of issuance of tax certificate and providing that the format of the notice is to be prescribed by the department of revenue.

In contrast to notice by publication, which is required by current law before issuance of a tax certificate, the notice under the new procedure is not required until not more than 90 days after the tax certificate is issued (under new s. 74.57, it is issued on August 15). This delay allows the taxation district treasurer sufficient time to comply with the requirements. The increased effectiveness of the mailed notice should offset any concerns about the time when it occurs.

Subsection (2) states the effect of mailing a notice after the otherwise-required date. Under the provision, the tax certificate is not affected, but the commencement of the redemption period is delayed.

Subsection (3) replaces s. 74.36, relating to affidavits of publication and posting. It is also intended to replace the requirement under s. 74.33 (1) that the county treasurer prepare a list of delinquent property by September 15. Thus, the affidavit's required contents include information contained on the formerly required list.

Subsection (4) is new; it clarifies the effect of nonreceipt of notice.

#### **74.61 Correction of description on tax certificate.**

(1) ERROR DISCOVERED. If the treasurer determines that the description of any property in a tax certificate is erroneous, the treasurer shall direct the assessor of the taxation district in which the property is located to prepare and deliver to the county treasurer an affidavit that provides a correct description of the property.

(2) NOTICE TO INTERESTED PERSONS. After the treasurer receives the affidavit, he or she shall notify any person with a recorded interest in the property that the description of the property is to be corrected as shown in the assessor's affidavit. The format of the notice shall be prescribed by the department under s. 70.09 (3). Notice shall be given as provided in s. 801.11 (4).

(3) OBJECTION; COURT RESOLUTION. Not more than 20 days after notice is given under sub. (2), any person with a recorded interest in the property may file with the treasurer a written objection to the proposed correction of the description of the property. If an objection is filed and cannot be resolved, the treasurer shall bring an action in circuit court to correct the property description.

(4) NO OBJECTION; DESCRIPTION CORRECTED. If no objection is made under sub. (3), the treasurer shall correct the description as prescribed in the affidavit of the assessor. The treasurer shall verify in writing on the tax certificate that the correction was made and shall sign the verification. Any tax certificate corrected under this section is valid as of the date the tax certificate was originally issued, and any tax deed or equivalent evidence of title issued on the corrected tax certificate is valid.

NOTE: Revises s. 74.456, generally, by:

1. Requiring court determination of the property description when objection is filed to a proposed correction; and

2. Eliminating references to tax sale certificates and to holders of tax sale certificates other than the county to reflect the revised procedure under s. 74.57 in which tax certificates are issued only to the county.

Specifically:

Subsection (1) restates s. 74.456 (1) as it applies to counties.

Subsection (2):

1. Revises s. 74.456 (2) by: (a) requiring notice to any person with a recorded interest in the property, not just owners and mortgagees, and by deleting as unnecessary the statement that all provisions of law contrary to the provisions of the subsection are superseded by it and (b) by simply requiring that notice be given as provided under s. 801.11 (4), relating to service of summons to obtain personal jurisdiction in civil actions.

2. Revises s. 74.456 (3) by providing that the format of the notice will be prescribed by the department of revenue, rather than prescribed in the statutes.

Subsection (3) revises s. 74.456 (4) by:

1. Eliminating the provision that the governing body of the taxation district determines the accuracy of the property description when objection to the proposed correction is filed. Court determination in such unresolved instances is substituted, in recognition of the complex factual and legal issues which may arise over a disputed property description; and

2. Deleting as unnecessary the requirement that the assessor's affidavit and notice and proof of serving notice be filed with the governing body.

Subsection (4) restates s. 74.456 (5).

Subsections (6) and (7) of s. 74.456, referring to tax certificates held by an individual and providing that that section applies to tax sale certificates issued both before and after May 30, 1943, are deleted as no longer necessary.

As part of the revision of procedures to correct tax certificates, s. 74.455, relating to a *de novo* court action to correct a property description on a tax certificate, is not continued. The special committee concluded that express authorization for such an action is unnecessary because a court action to correct the property description on a tax certificate may be brought under more general law.

**74.63 Retention of tax certificate and other information.** Following issuance of a tax certificate under s. 74.57 and notice of issuance under s. 74.59, the treasurer shall retain all of the following:

- (1) The tax certificate.
- (2) The affidavit of mailing, executed under s. 74.59
- (3). The tax roll upon which were included the real property taxes, special charges, special taxes or special assessments for which the tax certificate was issued.

NOTE: The requirement of s. 74.47 that a description of property for which a tax certificate was issued be filed is deleted, because new s. 74.57 requires the tax certificate itself to contain a description of all properties covered by the certificates. The requirement of s. 74.47 that the county treasurer record in a book all affidavits and notices required to be filed is deleted as archaic and unnecessary, because the affidavits and notices are required by this section to be maintained by the treasurer. In addition, the language that recorded affidavits and notices shall be received in evidence by courts is deleted as unnecessary.

**74.65 Lands acquired by state.** (1) EXCLUDED FROM TAX CERTIFICATE. A tax certificate may not, at the time of issuance, include real property which was acquired by the state after taxes have become a lien on the property. Within a reasonable time after the tax roll in which the delinquent real property taxes, special charges, special taxes or special assessments charged to such property are included is delivered to the county treasurer under s. 74.43, or within a reasonable time after a delinquency occurs, if it occurs after delivery of the tax roll to the county treasurer, or, if the roll is retained by a city authorized to act under s. 74.87, on or before July 1, the treasurer shall certify to the state agency acquiring the property the amount of the delinquency, including interest and penalty, and include the description of the property contained in the tax roll. Within a reasonable time after receipt of the certification from the treasurer, the state agency

shall transmit the certification and a voucher to the department of administration, directing that the amount of delinquency, including interest and penalty, be paid.

(2) NO TAX DEEDS ISSUED. No tax deed or equivalent evidence of title may be issued for real property which is acquired by the state after a tax certificate which included the property was issued. A state agency which purchases property which is included on an outstanding tax certificate shall pay to the treasurer an amount sufficient to redeem the property. If by mistake a tax deed or equivalent evidence of title is issued contrary to this subsection and the state brings an action to set aside the deed or equivalent evidence of title, the court shall require, as a condition of relief, that the state indemnify the county, city authorized to act under s. 74.87 or persons having an interest in the property which is founded upon the tax deed or equivalent evidence of title.

(3) HOW LIENS PAID. The amount of unpaid liens against property purchased by the state shall, when paid, be charged to the appropriation to which the purchase price is charged. Liens on property forfeited under s. 24.28 shall be paid out of the appropriation to which payments by the person forfeiting the property were credited.

NOTE: Revises s. 74.57.

Subsection (1) revises s. 74.57 (1) by:

2. Requiring the county treasurer to notify the acquiring state agency of delinquencies within a reasonable time after the tax roll upon which taxes on state-owned land are delinquent is returned to the county treasurer by the taxation district treasurer, or within a reasonable time after the tax becomes delinquent, following delivery of the tax roll to the county treasurer. The previous requirement, that the notification be directed to the board of commissioners of public lands, regardless of which state agency is acquiring the land, is abandoned as no longer appropriate. Direct notification of the acquiring agency is substituted.

3. Deleting the requirement that the board of commissioners of public lands order payment of delinquent property taxes only if the board finds the taxes "just and legal". The committee determined that the state should not receive special treatment in this regard.

4. Deleting as unnecessary and duplicative of s. 16.53 (relating to claims against the state), the requirement that the department of administration audit and draw a warrant upon the state treasurer for the amount of delinquent taxes.

Subsection (3) restates s. 74.57 (5).

Section 74.57 (4) is not continued. This section authorizes the board of commissioners of public lands to negotiate for the purchase of tax certificates and tax deeds upon public lands. A broader statement of the board's powers exists in s. 24.52; therefore, continuation of s. 74.57 (4) is not necessary.

#### SUBCHAPTER VIII MISCELLANEOUS

**74.67 Effect on taxes of revision of taxing jurisdiction boundary.** A revision of the boundaries of a taxing jurisdiction after the January assessment date does not affect the levy or collection of property taxes based upon that assessment. Section 66.03 governs any adjustment of assets and liabilities following revision of the boundaries.

NOTE: Revises s. 74.59 by:

1. Deleting as archaic the first sentence of that section, which provides that the provisions of ch. 74 applicable to towns and town treasurers are also applicable to cities and villages.

2. Expanding the application of the section to all taxing jurisdictions. See the definition of "taxing jurisdiction" under new s. 74.01 (7).

The last sentence, referring to s. 66.03, is added for convenience and clarity.

**74.69 Timely payment.** (1) **GENERAL RULE.** If payment is required by this chapter to be made by a taxpayer 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 day 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) **POSTAL SERVICE DELAY.** 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.

(3) **COUNTY DETERMINATION OF POSTAL SERVICE DELAY OR ERROR.** (a) In this subsection, "late payment" means a payment required under s. 74.11 or 74.12 which is not timely made under sub. (1).

(b) Any person required to pay interest or a penalty because of a late payment may, within 10 days of payment of interest or a penalty, but not later than December 1 of the year that the general property tax, special tax, special charge or special assessment was due, file a written request with the county treasurer requesting that the county board find that the late payment was timely under sub. (1) because the sole reason it was not timely was a delay or administrative error on the part of the U.S. postal service. The county board shall act on the request within 30 days after receipt of the request by the treasurer.

(c) The county board shall find that a late payment was timely under sub. (1) if it determines that the sole reason the payment was not timely was a delay or administrative error by the U.S. postal service. If it so finds, the county board shall direct that any interest or penalty paid because of the late payment be reimbursed to the taxpayer by the taxation district or county which collected the interest or penalty. A taxation district treasurer or county treasurer shall comply with a directive issued under this paragraph within 10 days.

(d) The county board may delegate the authority to make a determination under this subsection to any committee of the county board or committee or official of the county.

(e) This subsection does not affect the authority of a taxation district treasurer or county treasurer to consider payment timely under sub. (1) if the treasurer concludes that the payment fails to satisfy the requirements of sub. (1) solely due to a delay or administrative error by the U.S. postal service.

(f) This section does not apply to a city authorized to proceed under s. 74.87.

NOTE: Revises s. 74.025, relating to timely payment of taxes, by:

2. Deleting the section's application to chapter 75. A new section is created in chapter 75 to govern payments under that chapter. See s. 75.002.

3. Newly allowing, under sub. (3), a taxpayer to request the county board to determine whether a payment required under s. 74.11 and alleged to have been late was in fact untimely solely because of delay or administrative error on the part of the U.S. postal service. If the county board so finds, any interest or penalty required to be paid by the taxpayer is refunded. The December 1 cut-off date for making a request for a refund was chosen to reflect that a taxpayer may not know that a payment was not timely made until the taxpayer receives notice of issuance of tax certificate. That notice can be given up to 90 days following the issuance date of August 15.

**74.71 Treasurer's receipts.** When a taxation district treasurer pays money to a county treasurer under this chapter, the county treasurer shall give the taxation district treasurer a receipt for the amount paid. The receipt shall specify the amount paid, the date of the payment and the account upon which the payment is made.

NOTE: Revises s. 74.16 as follows:

1. Deletes the requirement that the county treasurer issue duplicate receipts to the taxation district treasurer.

2. Deletes the requirement that the taxation district treasurer must have one receipt countersigned by the county clerk.

3. Deletes the provision that no receipt of a county treasurer is evidence of payment unless it is countersigned by the county clerk.

**74.73 Rights of occupant or tenant who pays taxes.** An occupant or tenant of property who pays real property taxes, special assessments, special charges or special taxes levied against the property, including any interest or penalties, may recover the amounts paid, plus interest at the rate of 1.0% per month or portion of a month, from the person under whom he or she is an occupant or tenant. Unless otherwise agreed between the parties, the occupant or tenant may deduct the amounts paid, plus interest, from rental payments otherwise due to the person under whom he or she is an occupant or tenant.

NOTE: Revises s. 74.63 as follows:

1. Expands the scope of the section expressly to include special assessments, special charges or special taxes, in addition to real property taxes.

2. Provides that an occupant or tenant who pays interest or penalties assessed because of delinquent taxes, charges or assessments may recover the interest or penalties.

3. Increases the monthly interest rate on amounts paid from 0.8% to 1.0%.

**74.75 Vacancies in office; how taxes collected.** If property within a taxation district is not assessed because of a vacancy in a county, city, village or town office, the department of revenue shall appoint a person certified under s. 73.09 to perform the functions of the office of assessor. If property taxes, special charges, special assessments or special taxes are not

collected on property because of a vacancy in a city, other than a city authorized to proceed under s. 74.87, village or town office, the county treasurer shall perform the functions of taxation district treasurer.

NOTE: Revises s. 74.60 as follows:

1. Makes the section applicable to counties, cities and villages in addition to towns.
2. Makes the section applicable to any situation in which there is a vacancy in a county, city, village or town office resulting in property not being assessed, not only to situations in which the electorate of a town neglect or refuse to elect town officers.
3. Requires the department of revenue to appoint a person certified as an assessor under s. 73.09, rather than the assessor of an adjoining town, to perform the function of assessor.
4. Requires the county treasurer to perform the functions of a taxation district treasurer if taxes are not collected, rather than the treasurer of an adjoining town.

**74.77 Effect on lien of payment of taxes by lienholder.** (1) **PAYMENT INCREASES LIEN.** A person who holds a lien on real property and pays real property taxes, special assessments, special charges or special taxes levied against the property or any interest or penalty increases the amount of his or her most senior lien against the property by the amount paid, plus interest at the rate of 1.0% per month or fraction of a month. An increase in the amount of a lien by this section does not affect the priority or enforcement of the lien.

(2) **APPLICABILITY.** This section applies to all payments made by lien holders, regardless of whether they are made against current amounts, delinquent amounts or in redemption under ch. 75.

NOTE: Revises s. 74.67 as follows:

1. Adds special assessments, special charges and special taxes to the items which may be paid by the lienholder with the rights provided under this section.
2. Codifies the decision of the Wisconsin supreme court in *Johnson v. Ryan*, 206 N.W. 871, 188 Wis. 620 (1926), in which the court held that s. 74.67 gives a lienholder an addition to his or her original lien rather than a new lien with a different priority than that of the original lien.
3. Increases the rate of interest on the amount paid from 0.8% per month to 1.0% per month.

Section 74.68, which authorizes a lienholder paying amounts under this section to record that fact with the register of deeds, is deleted as unnecessary. If recording is important, the original lien will be recorded and, consequently, there is no need to record a mere increase in the amount of the lien, since amounts of liens are not recorded.

Section 74.69, which provides how amounts paid by a lienholder under this subsection are collected, depending upon the type of lien to which they are added, is deleted as no longer necessary since the amounts paid by the lienholder constitute an expansion of the amount of his or her most senior lien and have no effect on the priority or enforcement of that lien.

**74.79 Lienholder may contest tax.** Any person who holds a lien on real property has the remedies of a property owner to contest, as to that property, the legality or validity of any real property tax, special assessment, special charge or special tax or the validity of a tax certificate issued under s. 74.57.

NOTE: Revises s. 74.70 by deleting reference to "any such original lien". The deleted term appears to have referred to liens other than liens arising solely because of the payment of a property tax, special assessment, special charge or special tax. Under that interpretation, liens of the latter type were not within the scope of the provision. The special committee concluded there is no apparent reason to exclude such liens from this section.

#### SUBCHAPTER IX EXCEPTIONS FOR 1ST CLASS CITIES AND POPULOUS COUNTIES

**74.81 Procedure in authorized city.** In any city authorized by its charter to sell land for nonpayment of city taxes, the provisions of this subchapter relating to the time and place of payment and returns and settlements of the taxes and charges in the duplicate county tax roll shall apply in order to conform as nearly as may be to the procedure prescribed and followed under that charter, but otherwise the provisions of this subchapter shall govern.

**74.83 Agreements.** Any 1st class city may enter into agreements to pay delinquent state, county, metropolitan sewerage district and vocational, technical and adult education district real or personal property taxes, including accrued interest and penalties thereon, applicable to property located in that city at any stage in the proceedings for collection and enforcement of those taxes and thereafter collect and enforce those taxes, including interest and penalties on them, in its own name in accordance with any of the procedures or remedies applicable to the collection and enforcement of delinquent city, state, county, metropolitan sewerage district and vocational, technical and adult education district taxes under this chapter and ch. 75.

**74.85 Multiple instalments payment options.** (1) **AUTHORITY.** (a) The governing body of any taxation district located in a county having a population of 500,000 or more, other than a city that collects general property taxes under s. 74.87, may by ordinance authorize the payment of real property taxes, special assessments and special charges in 3 or more instalments, as provided under this section. An ordinance enacted under this paragraph, or any repeal of, or amendment to, such an ordinance applies to the real property tax, special assessment and special charge collections of a calendar year only if it is enacted not later than August 15 of the preceding calendar year.

(b) In any taxation district which has enacted an ordinance under par. (a), all general property taxes, special assessments and special charges shall be collected as provided in this section.

(2) **REQUIRED PROVISIONS OF ORDINANCE.** An ordinance enacted under sub. (1) (a) shall provide that:

(a) Real property taxes and special assessments may be paid in 3 or more instalments. Each instalment is due on the last day of the month designated.

(b) The first instalment shall be paid on or before January 31.

(c) At least 50% of the real property taxes and 50% of the special assessments shall be paid by April 30.

(d) All real property taxes and special assessments shall be paid by July 31.

(3) **MINIMUM PAYMENT, BALANCE PAYABLE.** An ordinance enacted under this sub. (1) (a) may establish a minimum payment amount for instalments and shall authorize a taxpayer to pay the remaining unpaid balance of any real property taxes on any instalment payment date.

(4) **REAL PROPERTY TAXES.** All taxes on real property and special assessments shall be paid in one of the following ways:

(a) In full on or before January 31.

(b) In instalments under the ordinance.

(5) **SPECIAL CHARGES AND OTHER TAXES.** All special charges and special taxes that are placed on the tax roll shall be paid in full on or before January 31.

(6) **PERSONAL PROPERTY TAXES.** All taxes on personal property shall be paid in full on or before January 31.

(7) **DELINQUENT FIRST INSTALMENT.** If the first instalment of real property taxes and special assessments is not paid on or before January 31, the entire amount of the remaining unpaid taxes and special assessments on that parcel is delinquent as of February 1.

(8) **DELINQUENT 2ND OR SUBSEQUENT INSTALMENT.** If the 2nd or any subsequent instalment payment of real property taxes or special assessments is not paid by the due date specified in the ordinance, the entire amount of the taxes or special assessments that remain unpaid on that parcel are delinquent as of the first day of the month after the payment is due.

(9) **PAYMENT OF DELINQUENT PAYMENTS, INTEREST AND PENALTY.** (a) All general property taxes, special assessments, special charges and special taxes that become delinquent and are paid on or before July 31 shall be paid, together with interest and penalties charged from the preceding February 1, to the taxation district treasurer.

(b) All general property taxes, special assessments, special charges and special taxes that become delinquent and are not paid under par. (a) shall be paid, together with interest and penalties charged from the preceding February 1, to the county treasurer.

(10) **DELINQUENT ANNUAL PAYMENT.** (a) If all special charges, special taxes and personal property taxes that are due under sub. (5) or (6) are not paid in full on or before January 31, the amounts unpaid are delinquent as of February 1.

(b) If any special assessments, special charges or special taxes are entered in the tax roll as charges against a parcel of real property and are delinquent under par. (a), the entire annual amount of real property taxes on that parcel which is unpaid is delinquent as of February 1.

(11) **PAYMENT PRIORITY.** (a) If a taxation district treasurer or county treasurer receives a payment from a taxpayer which is not sufficient to pay all general property taxes, special charges, special assessments and special taxes due, the treasurer shall apply the payment to the amounts due, including interest and penalties, in the following order:

1. Special charges.
2. Special assessments.
3. Special taxes.
4. General property taxes.

(b) The allocation under par. (a) 1 to 4 is conclusive for purposes of settlement under ss. 74.25 to 74.305 and for determining delinquencies under this section.

(12) **DELINQUENT TAXES RETURNED; COLLECTION BY COUNTY.** The taxation district treasurer shall retain the tax roll and make collections through July 31. On or before August 15, the taxation district treasurer shall return the tax roll to the county treasurer. The county treasurer shall collect all returned delinquent real property taxes, special assessments, special charges and special taxes, together with interest and penalty assessed from the previous February 1, as provided under s. 74.47.

**74.87 Payments in authorized cities.** (1) **DEFINITION.** In this section, "city" means a city authorized by its charter to sell land for nonpayment of taxes.

(2) **WHEN PAYABLE GENERALLY.** Except as provided in subs. (3) and (4), in a city, general property taxes, special charges and special assessments shall be paid to the city treasurer on or before January 31.

(3) **OPTIONAL PAYMENT SCHEDULE.** (a) The common council of a city may, by ordinance, permit payment in 10 equal instalments, without interest, of general property taxes, special charges and special assessments of the city, other than for special assessments for which no payment extension is allowed. Each instalment shall be paid on or before the last day of each month from January through October. Taxes on personal property may be paid in instalments under this subsection if, on or before January 31 of the year in which the tax becomes due, the taxpayer has first paid to the city treasurer taxes on personal property levied by all taxing jurisdictions other than the city. The amounts and time of payment of city general property taxes, special assessments and charges in the city tax roll shall be as provided in the charter of the city.

(4) **OPTIONAL PAYMENT SCHEDULE FOR CERTAIN TAXES AND CHARGES.** The common council of a city may, by ordinance, permit the payment in 7 equal instalments, without interest, of a portion of all general property taxes and special charges in the duplicate county tax roll or of any tax or charge levied by a metropolitan sewerage district under ss. 66.88 to 66.918. Each instalment shall be paid on or before the last day of each month from January through July.

(5) **EXERCISE OF INSTALMENT OPTION.** The taxpayer may exercise the option provided under sub. (3) or (4)



by making the first instalment payment on or before January 31 of the year in which the general property taxes, special assessments or special charges are due.

(6) LATE PAYMENT OF INSTALMENTS. (a) If one instalment only is not paid on the due date, that instalment is not delinquent and does not render the unpaid balance delinquent, but the instalment shall be collected, together with interest and penalty as provided under s. 74.47 from the day following the due date.

(b) If a 2nd instalment under sub. (3) is not paid on the due date, the city treasurer shall declare the unpaid balance delinquent and the general property taxes, special assessments and special charges shall be collected by the city treasurer together with interest and penalty as provided under s. 74.47 from the preceding January 1.

(c) If a 2nd instalment under sub. (4) is not paid on the due date, the entire unpaid balance is delinquent and shall be returned to the county treasurer for collection.

(d) If the final instalment is not paid by the end of the month following the due date, the delinquent unpaid balance shall be collected, with interest and penalty as provided under s. 74.47, from the preceding January 1.

(7) PAYMENT CONSIDERED TIMELY. A payment is timely under subs. (2) to (4) under any of the following conditions:

(a) It is mailed in a properly addressed envelope and received by the city treasurer with postage prepaid and the envelope is postmarked before midnight of the last date prescribed for making the payment.

(b) It is received by the city treasurer by mail or otherwise within 5 days of the prescribed date.

(c) If the only reason that the requirements of par. (a) or (b) are not met is delay by, or an administrative error of, the U.S. postal service.

(8) RETURN OF TAX ROLL. On or before February 25, the treasurer of a city acting under this section shall return the duplicate county tax roll to the county treasurer. The city treasurer shall collect delinquent city general property taxes, special assessments and special charges as provided in the city charter, except that the city treasurer shall certify all delinquent taxes levied by a metropolitan sewerage district that is created under ss. 66.88 to 66.918 to the county treasurer for collection.

SECTION 76. 74.695 (1) to (5) of the statutes are renumbered 779.98 (1) to (5), and 779.98 (1), as renumbered, is amended to read:

779.98 (1) Any person having a lien on real estate against which ~~realty~~ there is a prior lien may pay any or all of the items ~~mentioned~~ in sub. (2), ~~and the~~ The amounts ~~so~~ paid shall be added to the payor's lien, ~~bear~~ with interest from the date of payment at the same rate as ~~that borne~~ when paid, or if no rate was provided for prior to such payment, at the legal rate of interest. Interest on amounts paid for items described

in sub. (2) (d) shall be computed at the rate under s. 74.77. All sums so paid shall be collected as a part of and in the same manner as is the lien by virtue of which said payments are made and be entitled to the same priority.

NOTE: Renumber s. 74.695 to be s. 779.98 of the statutes. Section 74.695 contains provisions applicable to liens on real estate, which are more extensive in scope than liens arising because of property taxes. Therefore, this section is more appropriately placed in ch. 779, which contains provisions relating to liens generally. In addition, s. 74.695 is revised as it relates to tax liens so that the interest rate is the same as that provided under new s. 74.77.

SECTION 77. 74.695 (title) and (6) of the statutes are repealed.

SECTION 78. 75.001 of the statutes is created to read:

**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.

NOTE: Creates 2 definitions of terms used generically in ch. 75. The definition of "tax" is necessary clearly to include special assessments, special charges and special taxes within the scope of the term as used in ch. 75. Failure to pay special assessments, special charges or special taxes when due results in inclusion of the affected property in the tax certificate issued under revised s. 74.57 (1). Therefore, the references to delinquent "taxes" in ch. 75 need also to encompass delinquencies arising from nonpayment of these other types of charges against property. Consistent with this change, those provisions in ch. 75 which specifically deal with some, but not all, delinquent taxes, charges and assessments are modified to achieve a uniform approach in collecting all delinquencies.

The definition of "tax deed" is intended to clarify that, under ch. 75, title to tax delinquent property can be taken by the county by any of 3 methods. Under the original legislation authorizing collection of delinquent taxes by sale of land, [ch. 22, laws of 1859], a tax deed was eventually issued if the land was not redeemed. The 2 other methods — foreclosure of certificates, authorized by ch. 181, laws of 1872, and foreclosure of a tax lien by action in rem, authorized by ch. 340, laws of 1947 — were created later. However, the terms "tax deed" and "deed" in ch. 75 appear not to have been contemporaneously broadened explicitly to encompass these additional methods by which title can be taken. [However, s. 75.521 (13) (b) does note that the judgment in an action in rem has the effect of issuance of a tax deed.] The new definition will explicitly broaden the meaning of the term.

SECTION 79. 75.002 of the statutes is created to read:

**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.

NOTE: Formerly, the substance of this section was contained in s. 74.025 and was made applicable to ch. 75 by cross-reference. In recodifying ch. 74, the special committee concluded that, to the extent the provision applies to ch. 75, the appropriate placement is in ch. 75.

SECTION 80. 75.01 (title) and (1) of the statutes are amended to read:

**75.01** (title) **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 may, prior to the recording of a tax deed based on a tax sale certificate issued on the sale of a parcel of land or of any interest in it for nonpayment of taxes, may redeem any the land described in the tax sale certificate or any interest in it, whether the tax sale certificate is a lien against all the land or against an undivided interest in it. This redemption. Redemption shall be made by paying to the county treasurer of the county or city selling the land the amount of the taxes for which the land or interest was sold or the amount redeemed unpaid taxes stated in the tax certificate plus the interest and penalty on the taxes as provided under s. 74.80 from the January 1 after the tax levy year 74.47, computed from the date of accrual as specified in the tax certificate plus all any other charges authorized by law to be imposed on the tax certificate after the sale following its issuance. If there is a redemption before the recording of a tax deed, the tax deed, the tax deed, as it relates to the land redeemed, shall be void. When an application is made to a county or city treasurer to redeem from any tax sale any divided portion of any part or portion of any lot or parcel of land that was sold for taxes, the treasurer before making a receipt for the redemption applied for shall give notice of the proposed redemption to any person other than the applicant having a recorded ownership, mortgage, or land contract interest in the land and to any purchaser of a tax certificate that describes the land as shown by the treasurer's records or that may be affected by the application and afford him or her a hearing. This notice shall be given in the manner provided in s. 75.12 for the giving of notice of application for a tax deed, and the costs of giving this notice shall be paid by the person making the application. The time for such hearing shall be fixed at not less than 10 days after the service of the notice. The county or city treasurer shall then determine the true proportion of taxes chargeable to the part or portion sought to be redeemed, and that amount shall be required for the redemption.~~

(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. ~~As used in this subsec-~~

~~tion, "recording" means the presentation of the tax deed to the register of deeds for record and acceptance of it.~~

SECTION 80g. 75.01 (3) of the statutes is repealed.

SECTION 80r. 75.01 (4) of the statutes is amended to read:

75.01 (4) (a) Redemption of land sold for taxes subject to a tax certificate may be made in partial payments of not less than \$20 and in any multiple of \$5, 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. 74.80 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 January 1 of the year after the tax levy 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 January 1 of the year after the tax levy. No payment of any instalment may be made by the county treasurer to the holder of any certificate unless the certificate is produced and the instalment payment endorsed on it date of accrual specified in the tax certificate.~~

NOTE: Amends s. 75.01, relating to redemption of land subject to a tax certificate, to reflect changes in revised ch. 74. The following changes are made in sub. (1):

1. Language recognizing that the tax certificate may apply to partial or undivided interests in land is deleted. Under revised ch. 74, the tax certificate will no longer include partial interests in property. Only entire parcels on which taxes, assessments or charges remain delinquent will be included in the tax certificate. This change reflects the special committee's conclusion that the procedures for collection of delinquent taxes should not operate to subdivide land in a manner which is outside those laws and local ordinances regulating subdividing of land in general.

2. Amendments are made, as necessary, to reflect the new procedure of automatic issuance of a tax certificate to the county, rather than the discontinued procedure for sale of tax-delinquent lands and issuance of a tax certificate to the highest bidder, who could be a person other than the county.

Subsection (4) is modified to reflect a portion of revised s. 74.49, relating to partial payments on delinquent taxes. Specifically, the revised language on the minimum amount of payment is incorporated into sub. (4). However, unlike the partial payments allowed under revised s. 74.49, partial payments can be made on all delinquent amounts, rather than just on delinquent general property taxes. Changes also are made to clarify that the making of partial payments does not extend the period of redemption and that interest and penalty accrue from the date specified in the tax certificate, rather than January 1. [Under new s. 74.11, delinquencies may occur at varying dates.] Lastly, now-superfluous language referring

to persons other than the county holding tax certificates is deleted.

SECTION 81. 75.03 of the statutes is amended to read:

**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 sale of said lands sold for taxes 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 were not sold for nonpayment of taxes 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. And the The lands of persons adjudged mentally incompetent so sold or any interest they may have in the same which they acquired in lands prior to such sale the date the lands became subject to a tax certificate and which were not sold for nonpayment of taxes 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, and such redemption. Redemptions shall, in all the cases mentioned in this section, be made in the manner provided in~~ 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 of sale of the lands became subject to a tax certificate and which lands were sold for nonpayment of taxes accrued delinquent taxes for 5 or more consecutive years, prior to or after such acquisition, shall be made in the manner provided in s. 75.01 not be extended under sub. (1).~~

(3) ~~When the purchaser of such lands at tax sale or the owner of tax certificates of such lands is the owner and holder of delinquent tax certificates issued upon tax sales 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 any of such certificates the certificate has not expired, the owner and holder of such certificates county may either foreclose by action under s. 75.19 or a tax deed may be issued to the owner as provided by this chapter and the owner may 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, ~~which the owner may also do if the tax deed was issued prior to the effective date of this amendment.~~ 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. ~~This subsection as amended in 1945 is retroactive January 1, 1946. The postponement of the effective date of the retroactive provision is to afford an opportunity to all persons having an interest in lands affected to redeem such lands from the lien of tax certificates prior to such effective date.~~

NOTE: Amends s. 75.03, relating to redemption of lands owned by minors or mentally incompetent persons.

Subsection (1) is amended to reflect that lands are no longer sold for delinquent taxes; rather, a tax certificate is issued to the county. The determinant of whether lands owned by minors or mentally incompetent persons are entitled to an extended period of redemption — whether the lands were not “sold for nonpayment of taxes for 5 or more consecutive years” — is changed to the equivalent requirement, that the lands did not accrue delinquent real property taxes, special assessments, special charges or special taxes for 5 or more consecutive years, rather than being “sold” for nonpayment. No substantive change is intended.

Subsection (2) is similarly amended to state that minors and mentally incompetent persons are not entitled to an extended period of redemption if their lands “accrued” delinquent real property taxes, special assessments, special charges or special taxes for 5 or more consecutive years, rather than being “sold” for nonpayment. In addition, sub. (2) is amended to state explicitly that there is no extended period of redemption in such a situation: a result only implied in the previous text.

Subsection (3), which governs the procedure for taking a deed when tax-delinquent land owned by a minor or a mentally incompetent person is not eligible for an extended period of redemption, has been modified. Under previous law, a person owing 5 or more tax certificates on such land could commence an action no later than the last date for issuance of a deed on any of the certificates. Under s. 75.20 (2), tax certificates become void 11 years after issuance. Thus, the owner of the certificates could still commence an action to take a deed 15 or more years after making the purchase of the land on the first occasion of delinquency and receiving the first tax certificate. If the purchaser held more than 5 tax certificates, the period within which an action could be brought would be accordingly extended.

As amended, the county will hold the initial tax certificate. Under amended s. 75.01 (3), additional certificates will not be issued in the event of subsequent delinquencies. As a result, if the county desires to commence an action to take a deed, it must do so before the tax certificate becomes void, i.e., within the 11-year period following its issuance. The result is a 4-year shortening of the time for commencing an action to take a deed and foreclose any redemption rights of a minor or a mentally incompetent person.

Subsection (3) is also amended to delete now-obsolete language relating to the time when the text, as amended in 1945, became effective.

Lastly, sub. (3) is modified to clarify that, regardless of the manner in which tax title is taken, an action under s. 75.19 is necessary to extinguish the special right of redemption.

SECTION 82. 75.04 of the statutes is amended to read:

**75.04 Redemption receipt and entries.** Upon the redemption of any lands sold for taxes subject to a tax

certificate by payment to the county treasurer, ~~such the treasurer shall execute to the person so redeeming a receipt specifying therein the name of the purchaser, the land redeemed and the amount of the redemption money paid on each parcel separately; and such. The treasurer shall also enter on the sale list kept by him tax certificate the name of the person redeeming, the sum paid therefor, and the time when paid; but the county treasurer shall not be required to include in the same receipt of redemption lands sold in different years information required under s. 74.57 (4) (d).~~

NOTE: Amends s. 75.04, relating to redemption receipts to:

1. Reflect that tax-delinquent lands are no longer sold; under revised s. 74.57, a tax certificate is automatically issued to the county. The amended section also requires the county treasurer to record redemption on the tax certificate itself. Under revised s. 74.57, the certificate now contains a description of each parcel of delinquent property; this listing replaces the sales list under former s. 74.47. [See also the NOTE to revised s. 74.63.]

2. Deletes, as superfluous, the last clause of s. 75.04, relating to what is, or is not, included in receipts by the county treasurer when delinquencies for separate years are redeemed.

SECTION 83. 75.05 of the statutes is repealed and recreated to read:

**75.05 Disposition of redemption money.** The county treasurer shall distribute 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 and penalties, 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.

NOTE: Replaces previous language providing that redemption proceeds be disbursed to the tax sale certificate owner and, after the expiration of 6 years following the date of redemption, be paid into the county's general fund (if not claimed).

Under revised ch. 74, the county will always hold the tax certificate. Further, under revised s. 74.29, relating to the August settlement, the county will always settle in full for general property taxes and special taxes and may also settle in full for delinquent special assessments or special charges.

Recreated s. 75.05 directs the county treasurer to disburse funds received in redemption of tax delinquent lands, plus interest and penalties, to the county or underlying taxing jurisdiction which "carried" the delinquent amounts during the period between delinquency and redemption. The 15-day period for disbursement of proceeds back to the taxing juris-

diction under sub. (5) is based on the monthly settlement pattern of former s. 74.03 (9).

SECTION 84. 75.06 of the statutes is repealed and recreated to read:

**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.

SECTION 85. 75.07 of the statutes is amended to read:

**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 limited for redeeming lands ~~sold as aforesaid~~ 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 ~~day limited therefor, specifying the same last day of redemption, which shall be specified,~~ they will be conveyed to the ~~purchaser~~ 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 ~~his record of lands on which the taxes have been returned as delinquent and with such treasurer's list of the same lands in his book of sales, and if 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 said list 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 he shall cancel the certificate of sale of said parcel and shall readvertise and sell the same at the next ensuing sale of land for unpaid taxes; provided, however, that if 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, ~~he the treasurer~~ shall then let by contract the publication of such list to the lowest bidder upon a notice, written or printed, to be deliv-

ered 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; ~~and any.~~

(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 ~~his~~ 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 ~~county~~ 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 ~~his~~ 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.

NOTE: 2. Recognizes that the treasurer no longer must compile a list of lands sold for delinquent taxes; rather, the tax certificate serves as the record of those lands upon which taxes are delinquent.

3. Adopts gender-neutral terminology.

4. Provides, in sub. (2) (a), for inclusion of a parcel in the next-issued tax certificate, if the parcel was erroneously described on the original tax certificate. This is the functional equivalent of previous law, which directed that the land again be sold for delinquent taxes.

5. Directs, for purposes of clarification, that the portion of any bond penalty forfeiture due the common school fund be paid directly into the state treasury.

SECTION 86. 75.09 of the statutes is amended to read:

**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 ~~sold for taxes~~ 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 ~~his~~ the county, one of which copies shall be posted up in some conspicuous place in ~~his~~ the treasurer's office.

NOTE: Amends s. 75.09, relating to posting notice of redemption, to:

1. Reflect that tax-delinquent lands are no longer sold.

2. Adopt gender-neutral terminology.

SECTION 87. 75.10 of the statutes is amended to read:

**75.10 Mistake in notice.** Whenever, by mistake or otherwise, such treasurer neglects or fails to include in ~~his~~ 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 ~~5 years~~

~~as to tax certificates which antedate 1945, 4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6 months for the 1947 tax certificates, and thereafter 3 years; such 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 his~~ 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 ~~and all. All tax~~ deeds made upon such tracts of land after the expiration of ~~5 years as to tax certificates which antedate 1945, 4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6 months for the 1947 tax certificates, and thereafter 3 years,~~ 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.

NOTE: Amends s. 75.10, relating to mistake in notice, to:

1. Remove outdated language relating to phasing in a reduced period of redemption during the 1940's.

2. Insert general references to the period of redemption, which is reduced from 3 years to 2 years by revised s. 74.57 (2) (b).

3. Adopt gender-neutral terminology.

SECTION 88. 75.11 (1) of the statutes is renumbered 75.11 and amended to read:

**75.11 Compensation of printer.** The printer who publishes the list and notice of the time when the redemption of land ~~sold for the nonpayment of taxes~~ 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, ~~he~~ the printer shall receive the compensation fixed by such contract and no more.

NOTE: Renumbers and amends s. 75.11 (1), relating to printer's compensation, to:

1. Reflect that tax-delinquent lands are no longer sold, under revised ch. 74.

2. Adopt gender-neutral terminology.

3. Delete an unnecessary subsection number.

SECTION 89. 75.12 (1) to (4) of the statutes are amended to read:

75.12 (1) No tax deed shall be issued on any lot or tract of land ~~which has been or shall hereafter be sold for the nonpayment of taxes,~~ 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 incumbered 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 name of the owner and holder of the tax sale certificate, and the date thereof~~ of the tax certificate, the description of the lands involved, the amount for which the lands were sold 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 will be applied for. A notice of application for a tax deed shall not be served earlier than 88 days prior to the earliest date on which the holder of a tax certificate county is by its terms entitled to a deed. The owner and holder of such tax sale certificate may include in said notice all the certificates he holds upon the same tract of land which are eligible for application for tax deed.

(3) The notice of application for tax deed may be served by the owner and holder of any tax sale certificate sold by any county treasurer or by any city treasurer authorized by law to sell lands for nonpayment of city taxes or assessments, or by county treasurer or any person acting for the owner and holder 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 owner and holder of the tax sale certificate or an authorized 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 as to county tax sale certificates, or in cities authorized by law to sell lands for nonpayment of city taxes or assessments with the city treasurer as to city tax sale certificates. In such cases the notice shall be published by the owner and holder county treasurer as a class 3 notice, under ch. 985, in the county in which the lands are located. The affidavit of the owner and holder of the tax sale certificate 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 ~~filed with~~ retained by the county treasurer as to county tax sale certificates and with the city treasurer as to city tax sale certificates. After the copies have been filed with the county or city treasurer it shall be necessary to pay, in order to redeem the. A person subsequently redeeming a lot or tract of land, or any part or interest therein, shall pay in addition to the redemption value of the tax sale certificates 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 applicant for tax deed county treasurer shall file an affidavit to that effect with the officer authorized by law to issue the tax deed.

NOTE: Amends portions of s. 75.12, relating to the procedure for giving notice of application for a tax deed, to reflect that only the county will be applying for the deed, since it will hold the tax certificate under revised ch. 74. Other amendments:

1. Reflect that tax-delinquent land will no longer be sold; rather, a tax certificate is automatically issued to the county.
2. Require that the notice in sub. (2) refer to any applicable penalty, as well as interest, which may accrue on amounts delinquent.
3. Identify the county treasurer as the official responsible for giving notice.
4. Delete references to city tax sale certificates since, under revised ch. 74, counties are delegated full responsibility for collection of delinquencies.

SECTION 90. 75.12 (5) of the statutes is repealed.

NOTE: Repeals now-superfluous language regarding the inability of the owner of a tax certificate to recover the underlying amount from the county or city if a tax deed is voided because the procedural requirements of s. 75.12 were not followed. Under revised ch. 74, 3rd persons will no longer be able to own tax certificates.

SECTION 91. 75.13 of the statutes is amended to read:

**75.13 Filing affidavit.** If a proper affidavit of service of notice of land sold for taxes application for tax deed or a proper proof of nonoccupancy, in due form, as provided in s. 75.12, has heretofore been filed either with the county clerk or with the county treasurer, the fact that such affidavit of service of notice or affidavit of nonoccupancy or such proof has not been otherwise filed shall not, after 6 months after April 2, 1917, be alleged or raised in any action or proceeding attacking or questioning the title of the person claiming an interest county or its successors in interest in said the land growing out of the certificate of sale set forth in such which was the subject of the notice or proof.

NOTE: Amends s. 75.13, relating to creating a defense in subsequent litigation over legal title if proper affidavits have been filed, to:

1. More accurately describe the notice served under s. 75.12, which is of "application for tax deed".
2. Remove the county treasurer as an officer with whom a filing may be made. Under amended s. 75.12 (3), only the county treasurer or the treasurer's agent will serve those notices and will be required to make such filings with the county clerk.
3. Delete a dated effective date.
4. Reflect that only the county will be taking title to tax-delinquent land, because, under revised ch. 74, only the county will hold the tax certificate.
5. Ensure that the defense created by this section extends also to the the county's successors in interest in the land in question. The special committee concluded that it is desirable to give the county's successors in interest the same protection enjoyed by the county, especially since the actions of the county treasurer are the sole determinant of whether or not the defense will be available.

SECTION 92. 75.14 (1) and (2) of the statutes are amended to read:

75.14 (1) If any land ~~sold for nonpayment of taxes~~ subject to a tax certificate shall not be redeemed as ~~aforsaid the city or village treasurer or~~ county clerk shall, after the expiration of the time prescribed by law for the redemption thereof, on presentation to ~~him~~ of the ~~tax certificate of such sale~~ and proof of service of notice, execute in the name of the state and of ~~his city, village or~~ the county, as such officer thereof, under ~~his the clerk's~~ hand and the seal of the ~~city, village or~~ county, to the ~~purchaser, his heirs or~~ county and its assigns, a deed of the land so remaining unredeemed, and shall acknowledge the same which shall vest in the grantee county an absolute estate in fee simple in such land subject, however, to ~~all unpaid taxes and charges which are a lien thereon and~~ 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 ~~treasurer's list of said lands in his book of sales~~ 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 ~~he~~ the clerk shall enter opposite the description of said land in ~~his book of sales~~ the tax certificate a statement of the fact of such error or omission. If the description of said land in the ~~book of sales~~ 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 ~~and resell the same at the next ensuing sale of lands for unpaid taxes, 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.

NOTE: Amends that part of s. 75.14 relating to the issuance of tax deed and procedures preliminary to issuance, to:

1. Reflect that tax-delinquent lands are no longer sold and that, under the procedures of revised ch. 74, the county will always be the grantee of a tax deed.
2. Remove now-superfluous references to issuance of tax deeds by city and village clerks.
3. Adopt gender-neutral terminology.
4. Continue, in sub. (1), the requirement of former s. 75.36 (2) that the county clerk obtain prior approval from the county board before issuing tax deeds.
5. Reflect that the county treasurer no longer compiles a sales list under revised ch. 74 and that the tax certificate itself will contain the legal descriptions of land which have become tax delinquent.
6. Adopt the tax certificate correction procedure of s. 74.61 if the county clerk has discovered that the description of a parcel in the tax certificate is in error.
7. Provide for inclusion of the parcel in the next-issued tax certificate, if it is necessary to correct the description in the original tax certificate. This is the functional equivalent of previous law, which directed that the land again be sold for unpaid taxes.

SECTION 93. 75.14 (3) of the statutes is repealed.

NOTE: This provision required applicants for tax deeds in counties of 500,000 or more population (i.e., Milwaukee county), other than when the applicant was the county itself or a city authorized to collect and sell its own taxes (i.e., the city of Milwaukee), to show that the applicant, or some other person, had purchased all delinquent taxes on the parcel in question for years previous to the year of the tax certificate upon which the application for the deed was based. Subsection (3) also placed a similar requirement on persons making application for a tax deed to the city of Milwaukee.

Subsection (3) is no longer needed under revised ch. 74. Only the county will hold the tax certificate, and the city of Milwaukee is no longer empowered to sell its own taxes.

SECTION 94. 75.14 (4) of the statutes is amended to read:

75.14 (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 ~~or a deed upon foreclosure of tax certificate~~ 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 grantee owner to expend money for any purpose, except such as may require ~~said grantee the owner~~ to keep the premises in sanitary or a slightly condition, contribute to the cost of maintaining private roads, or to abate ~~nuisances or~~ undesirable conditions. ~~Provided that while any~~ 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 slightly 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 or deed upon foreclosure of tax certificate, and to ~~his or its heirs~~, successors and assigns.

NOTE: Amends s. 75.14 (4) to:

1. Reflect that, under revised ch. 74, only the county will hold the tax certificate and will always be the grantee of the tax deed.

2. Reflect that the term "tax deed", as newly defined in s. 75.001 (2), refers to all indicia of tax title obtainable under ch. 75.

3. Remove language which exempted the county from expending funds to keep premises to which it has tax title in sanitary condition and contributing to the cost of abating nuisances. The special committee concluded that, in matters affecting health and safety as opposed to aesthetics, the county should be held to the same standard as any other property owner.

SECTION 95. 75.143 (2) of the statutes is amended to read:

75.143 (2) The council of any city authorized ~~by law to collect and sell its own taxes~~ 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.

SECTION 96. 75.144 (2) (a) and (c) and (4) of the statutes are amended to read:

75.144 (2) (a) If a ~~city, village or~~ 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.

(c) The treasurer of the ~~city, village or~~ 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 ~~city, village or~~ 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 ~~city, village or~~ 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.

(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 ~~city, village or~~ county for the actual costs of any survey of the prop-



erty 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.

NOTE: Amends s. 75.144, as necessary, to remove incorrect references to villages and cities taking tax titles under ch. 75. Under previous law, counties and the city of Milwaukee were the only governmental units able to transfer tax titles. Under revised ch. 74, only counties will be able to take such titles.

SECTION 97. 75.145 of the statutes is amended to read:

**75.145 Correction of description by action.** Any tax deed issued by a county ~~or a city of the first class~~ 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.

NOTE: Amends s. 75.145 to reflect that, under revised ch. 74, 1st class cities (Milwaukee) will no longer issue tax deeds.

SECTION 98. 75.15 of the statutes is repealed.

NOTE: Deletes a provision allowing the county board to issue a tax deed to an owner of a tax certificate if the certificate has been lost or wrongfully withheld from the owner. Under revised ch. 74, only the county will hold the tax certificate; s. 75.15 is no longer needed, since 3rd parties will not own tax certificates.

SECTION 99. 75.16 of the statutes is amended to read:

**75.16 Deed, by whom executed; form.** All deeds of lands ~~sold for the nonpayment of taxes hereafter executed given under s. 75.14~~ shall be executed by the ~~proper officer authorized by law to execute the same county clerk~~ in the name of the state of Wisconsin, and of the ~~proper county, city or village~~ 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, .... ~~(or assignee of ....)~~, 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 (or certificates) of the (here name the officer making the sale)~~ 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 August 15, 19..., for the nonpayment of real property taxes, sold by the (here name the officer making the sale) at public auction at ....., in the county of ....., on the .... day of ....., in the year of our Lord one thousand nine hundred and ....., to the said .... for the sum special assessments, special charges or special taxes, in the amount of .... dollars and .... cents, in the whole, which sum was the amount of taxes assessed and due and unpaid on said tract (or several tracts) of land, together with the costs and charges of such sale due therewith at the time of

~~making such sale, the whole of which sum of money has been paid by the aforesaid purchaser (or purchasers); 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 sale certificate the lands which were sold included as aforesaid, and said lands are now continue to remain unredeemed from such sale, whereby said described lands have become forfeited and the said purchaser, his (her or their) heirs or assigns county is (or are) 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 consideration of the said money aforesaid and the premises,~~ and 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.... ~~and to his (or her or their) heirs and county of .... and its assigns,~~ to their sole use and benefit forever.

In testimony whereof, I, ....., the ~~(here designate the officer)~~ 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 ....., ~~in the year of our Lord one thousand nine hundred and .... 19...~~

[L. S.]

A. B.  
(Here give official designation.)  
Done in presence of

....  
....

NOTE: Amends s. 75.16, the statutory tax deed, to:

1. Reflect that tax-delinquent lands are no longer sold, and that the county will uniformly hold the tax certificate and be the grantee on all tax deeds.
2. Clarify that deeds are issued due to delinquent special assessments, special charges or special taxes, as well as real property taxes.
3. Clarify that the county clerk issues all tax deeds.

SECTION 100. 75.17 of the statutes is repealed.

NOTE: Repeals a provision requiring that tax deeds issued by cities after February 22, 1859, conform to s. 75.16. Under revised ch. 74, only counties will issue tax deeds, so the section is superfluous.

SECTION 101. 75.18 of the statutes is repealed.

NOTE: Repeals a provision governing the issuance of a 2nd tax deed to a person if the first deed is void because the person did not give proper notification of application for a tax deed or because the deed was "informal and insufficient". Under revised ch. 74 and this chapter, persons other than the county will no longer be in a position to receive an original tax deed. Therefore, this section is no longer necessary.

SECTION 102. 75.19 of the statutes is amended to read:

**75.19 (title) Foreclosure of certificate.** ~~The holder of any~~ 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 3 ~~2~~ years from the date of the certificate, except that when razing costs incurred by any city or village are included in the amount due for taxes, the period of redemption shall be one year from the date of the certificate ~~at the expiration of which the county or its assigns shall be entitled to a deed, or one year for tax certificates for 1982 and thereafter, on taxes due any city authorized by law to collect and sell its own taxes and before the holder would be debarred from demanding a tax deed.~~ The holder of any tax certificate 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 plaintiff county to be subrogated to the benefits of all liens upon the premises necessarily satisfied by the plaintiff 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 plaintiff 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 ~~plaintiff or the plaintiff's attorney~~ 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 plaintiff county shall not recover costs ~~personally~~ against any defendant who quitclaims or who shall establish the disclaimer at the trial. ~~The plaintiff may include in one action all the certificates the plaintiff holds upon the same tract of land.~~ 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.

NOTE: Amends s. 75.19, relating to foreclosure of tax certificate, to:

1. Reflect that, since only counties will hold tax certificates under revised ch. 74, only counties will bring foreclosure actions and will be the only plaintiff in such actions.

2. Reflect the reduction in the period of redemption to 2 years by revised s. 74.57.

3. Reflect that only one tax certificate is issued on tax delinquent property under amended s. 75.01 (3).

SECTION 103m. 75.195 (2) of the statutes is amended to read:

75.195 (2) The council of any city authorized ~~by law to collect and sell its own taxes~~ proceed under s. 74.87 may by ordinance direct its treasurer to defer the foreclosure of tax sale certificates held by the city on dwellings. The ordinance shall designate the period of time that the foreclosure of tax sale certificates 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 foreclose the tax sale 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.

SECTION 104. 75.20 (1) of the statutes is repealed.

NOTE: Deletes 2 definitions:

1. Section 75.20 (1) (a) defined "county" and "county treasurer" to include a city of the first class (Milwaukee) and its treasurer. Under revised ch. 74, Milwaukee will no longer hold tax certificates, so the definition is no longer needed.

2. The definition of "tax certificate" in s. 75.20 (1) (b) appears to be superfluous and therefore is deleted.

SECTION 105. 75.20 (2), (9), (9a) and (10) of the statutes are renumbered 75.20 (1), (2), (3) and (4), and 75.20 (2) and (3), as renumbered, are amended to read:

75.20 (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 ~~including all tax certificates which became void by operation of s. 75.20, 1943 stats., by May 15, 1945,~~ and shall make an entry in ~~his~~ the treasurer's record of unredeemed ~~tax sales property subject to a tax certificate~~ tax certificates evidencing such cancellation. ~~As to tax certificates not in his possession which have become void, the county treasurer shall cancel the same on his record of unredeemed tax sale certificates and such cancellation on such record shall have the same force and effect as though the cancellation had been made upon such tax sale certificates.~~

(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 ~~he~~ 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 ~~at tax settlement date.~~

NOTE: Renumbers s. 75.20, relating to a limitation on the life of tax certificates, and amends portions to:

1. Remove now-obsolete language referring to the 1943 statutes.
2. Reflect that tax-delinquent lands are no longer sold, and a tax certificate issued to the buyer, under revised ch. 74.
3. Adopt gender-neutral terminology.

**SECTION 106.** 75.21 of the statutes is repealed.

NOTE: Repeals a provision creating a 6-year statute of limitations on legal actions maintained on street commissioners' certificates, comptrollers' certificates or other special tax certificates. These certificates have, in modern practice, become obsolete. The underlying charges are now referred to as special assessments, special charges and special taxes which, upon delinquency, result in the issuance of a tax certificate. Further, although current s. 75.21 creates a 6-year limitation on action, it does not void the certificates at that time but applies the general 11-year limitation of s. 75.20 to them. Repeal, therefore, will promote a uniform approach while not affecting the length of the underlying lien, since the modern equivalent — the tax certificate — has the same life.

**SECTION 107.** 75.22 of the statutes is amended to read:

**75.22 (title) Validity; immaterial errors.** If after the sale issuance of a tax certificate or conveyance to the county of any lands sold for the nonpayment of taxes subject to a tax certificate and within the time hereinafter prescribed it shall be discovered that the sale of the certificate issued thereon was invalid, the county board shall make an order, briefly stating the reason therefor, directing that the money paid for such certificate on the sale, and all subsequent charges thereon, and all subsequent taxes paid on the lands described therein by the purchaser or his assigns, be refunded with interest to such purchaser or his assigns, upon the delivery of the certificate, as it applies to the affected lands, or deed to be canceled; and if the county treasurer shall, in pursuance of such order, offer to the person entitled thereto his money as aforesaid, and he shall refuse to receive the same and cancel the certificate or deed, he shall not be entitled to receive any interest on the money so paid by him after the day of such offer and refusal; nor shall any recovery ever be otherwise had against the county on such deed or certificate. But no sale, 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.

NOTE: Amends s. 75.22, relating to cancellation of deeds for invalidity of the tax certificate, to reflect that lands are no

longer sold for delinquent taxes under revised ch. 74, and that the county, as holder of the tax certificate, will always take title to tax-deeded land.

**SECTION 108.** 75.23 of the statutes is amended to read:

**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 ~~his~~ 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 ~~sale~~ 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.

NOTE: Amends s. 75.23, relating to the procedure upon county board cancellation of a tax deed, to:

1. Reflect that, under revised ch. 74, tax delinquent lands are not sold; rather, the tax certificate is issued to the county.
2. Adopt gender-neutral terminology.

**SECTION 109.** 75.24 of the statutes is amended to read:

**75.24 Limitation, claims under illegal deed or certificate.** Every action brought or claim presented against any county ~~or other municipal corporation~~ 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 ~~or municipality~~ 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.

NOTE: Amends s. 75.24, relating to limitations or actions based on void or defective tax certificates or deeds, to reflect that, under revised ch. 74, municipal corporations (i.e., Milwaukee) will no longer issue those certificates or deeds.

**SECTION 110.** 75.25 of the statutes is amended to read:

**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; ~~or, when the treasurer shall have withheld from sale any delinquent lands under s. 74.39, they shall be satisfied that such~~

lands were justly taxable for such tax or some portion thereof, they, 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 sale certificate was issued, or the land been redeemed from the tax sale, 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 his 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 sale certificate issued upon the sale of such lands for such reassessed tax. Such lien shall be superior to the lien of any tax sale certificate issued upon the sale of such land dated after the date of the lien of such reassessed tax but prior to the date of the tax sale certificate issued upon the sale of such land for such reassessed tax.

(2) Whenever the county board cancels a defective or void tax certificate or tax deed, or whenever the county treasurer shall have withheld from sale any delinquent lands under s. 74.39, 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 his 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. When the tax certificate or tax deed so canceled is owned and held by the county or the treasurer shall have withheld from sale any delinquent lands pursuant to s. 74.39, such That charge shall be in the amount of the tax without interest.

NOTE: Amends s. 75.25, relating to the lien of reassessed tax, to:

1. Reflect that tax-delinquent lands are no longer sold; rather, under revised s. 74.57, a tax certificate is annually issued to the county for all lands which become tax delinquent in that year. Further, as the exclusive holder of the tax certificate, only the county will take title to tax-deeded land.
2. Adopt gender-neutral terminology.

SECTION 111. 75.28 (1) of the statutes is amended to read:

75.28 (1) The limitation for bringing actions as provided in 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, shall not apply where the taxes, for the nonpayment of which the land was sold included in a tax certificate and the tax deed

executed, were paid prior to the sale inclusion of the land in the tax certificate, or where the land was redeemed from the operation of such sale as provided by law or where the land was not liable to taxation; nor shall such limitation apply where a single tax deed only has been issued and the original owner has, before the issuance of such tax deed, paid all taxes levied against the land for the 3 years ensuing after the year for which the land was returned delinquent and sold, except as herein provided.

NOTE: Amends a portion of s. 75.28, relating to limitations of actions relating to tax-deeded lands, to reflect that, under revised ch. 74, tax-delinquent lands will no longer be sold. Rather, they will automatically be included in the tax certificate issued annually to the county.

SECTION 112. 75.285 of the statutes is amended to read:

**75.285 Action; condition precedent.** No action or proceeding shall be maintained by the former owner or any person claiming under him the former owner, based upon the invalidity of any tax certificate or tax deed due to the failure of the county treasurer heretofore or hereafter to publish or post any notice for the sale of delinquent taxes on land to give notice under s. 74.59, unless within thirty days prior to the commencement of such action, tender shall be made to the owner of such tax certificate or tax deed, of the amount of the taxes, charges and interest due and the owner of such certificate or deed shall fail to release or transfer same. If the owner of any certificate or deed shall give notice in the manner prescribed in s. 75.28 and the original owner shall fail to redeem after a period of sixty days by depositing with the owner of such certificate or deed or the county treasurer, for the benefit of such tax certificate or tax deed owner, the amount of the taxes with interest and charges together with the costs of executing a release or transfer of such certificate or deed, then the limitation prescribed in s. 75.27 shall apply and no action or proceeding herein referred to shall be maintained 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.

NOTE: Extensively amends s. 75.285 to retain a monetary threshold for commencement of actions challenging tax certificates or tax deeds on the basis of alleged noncompliance with the notice requirement associated with issuance of a tax certificate. The special committee concluded that it is desirable policy to continue to require former owners to put up the amount of delinquent taxes, plus interest, penalty and other costs incurred by the county, as a condition for mounting a challenge to the county's adherence to the procedural statute governing tax certificate issuance.

The reference to the notice in question is changed to refer to the notice of issuance of tax certificate under revised s. 74.59,

which is the equivalent to the notice of sale of delinquent taxes on land in current s. 74.33. Also, the amended statute newly directs that the amount deposited be disbursed under the judgment in the action. Ultimate disposition of the funds deposited is thus within the discretion of the court.

The remainder of s. 75.285 is repealed as archaic and inconsistent with the procedure for taking tax title under amended ch. 75.

SECTION 113. 75.32 of the statutes is amended to read:

**75.32 Taxation and sale of lands held by counties.** Real property upon which the county holds ~~any a tax certificate of tax sale~~ shall continue liable to taxation ~~and to sale for unpaid taxes, and the county shall be the exclusive purchaser at the sale,~~ but when a tax deed shall be issued to the county ~~and it shall hold tax certificates of sale unredeemed on the same property for two successive years subsequent to the date of the sale on which such deed shall issue, including certificates of sale made prior to the passage of these statutes,~~ 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.

NOTE: Amends s. 75.32, relating to continued accumulation of delinquent taxes on tax-delinquent land, to:

1. Reflect that tax-delinquent land is no longer sold.
2. Clarify that taxes continue to accumulate, and the additional amounts are attached to the original tax certificate, under amended s. 75.01 (3).

SECTION 114. 75.34 of the statutes, as affected by 1987 Wisconsin Act 27, is repealed.

NOTE: Repeals a provision allowing the county to sell tax certificates. Under revised s. 74.57 (3), counties may no longer sell, assign or otherwise transfer tax certificates.

SECTION 115. 75.35 (title) of the statutes is amended to read:

**75.35 (title) Sale of tax-deeded lands; purchase of adjacent lands.**

NOTE: Revises a title to reflect the fact that only counties will acquire tax certificates.

SECTION 116. 75.35 (1) (intro.) and (b) of the statutes are consolidated, renumbered 75.35 (1) and amended to read:

75.35 (1) (title) DEFINITION. ~~The following terms, wherever used or referred to in~~ In this section shall have the following respective meanings, unless a different meaning clearly appears from the context: (b) ~~“Tax-deeded~~ “tax-deeded lands” means lands which have been acquired by a municipality 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.

NOTE: See the NOTES following the next 2 SECTIONS.

SECTION 117. 75.35 (1) (a) of the statutes is repealed.

NOTE: Deletes an unnecessary definition.

SECTION 118. 75.35 (2) (title), (a) and (c) to (e) and (3) and (4) of the statutes are amended to read:

75.35 (2) (title) **POWER OF COUNTY TO SELL TAX-DEEDED LANDS.** (a) Except as provided in s. 75.69, any municipality county shall have the power to sell and convey its tax-deeded lands acquired in the enforcement of delinquent tax liens in such manner and upon such terms as ~~its governing body~~ 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 municipality county until fully paid for and in the event of default in such payment the municipality 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 municipality 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 of the municipality under his the clerk's hand and the seal of ~~such municipality~~ the county.

(d) ~~The governing body of any municipality county board~~ The governing body of any municipality county board may delegate its power to manage and sell ~~tax-deeded tax-deeded~~ tax-deeded lands to a committee constituted of such personnel and in such manner and compensated at such rate as ~~such governing body~~ 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. 59.06 (2), or ~~such governing body~~ the county board may delegate the power of acquisition, management and sale of ~~tax-deeded tax-deeded~~ tax-deeded lands or any part of such power to such officer and departments of the municipality county as ~~such governing body~~ 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 tax-deeded~~ tax-deeded land and shall prescribe generally the powers and duties of such committee, officers, departments, employes and agents. The governing body county board is authorized to engage licensed real estate brokers and salesmen 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. ~~Such governing body~~ The county board may appropriate such sums of money as may be necessary to carry out the provisions of this section.

(e) Any ~~municipality county~~ acting either by its ~~governing body board~~ or by delegated authority as provided in this section may sell and convey ~~tax deeded~~ 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 ~~municipality county~~ acquired title to such land, nor shall it revive the lien of any tax sale certificate or tax dated subsequently to the date on which ~~such municipality the county~~ acquired its title. ~~The provisions of this paragraph shall operate retroactively upon any such sale or conveyance at any time heretofore made by any municipality.~~ 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.

(3) PREFERENCE TO FORMER OWNER TO REPURCHASE. The ~~governing body of any municipality county board~~ may, at its option, by ordinance provide that in the sale of ~~tax deeded~~ 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. Such ordinance shall not apply to ~~tax deeded~~ tax-deeded lands which have been improved for or dedicated to a public use by ~~such municipality the county~~ subsequent to its acquisition thereof.

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

NOTE: Amends s. 75.35, relating to sale of tax-deeded land, to reflect that:

1. Under revised ch. 74, only counties will take those lands and be able to sell or convey them.
2. Adopt gender-neutral terminology.

SECTION 119. 75.35 (2) (b) of the statutes is repealed.

NOTE: Repeals a provision allowing municipalities to sell and assign tax certificates. Under revised ch. 74, only counties will hold tax certificates and will not be able to sell or transfer them.

SECTION 120. 75.35 (5) of the statutes, as created by 1987 Wisconsin Act 27, is renumbered 75.36 (2m) and amended to read:

75.36 (2m) NOTICE; PROCEEDS. Upon acquisition of a tax deed under s. 75.14 this chapter if sub. (4) applies, the county treasurer shall notify the former owner, by registered 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 ~~and if the property is not subject to a special assessment the proceeds of which are pledged under s. 66.54 (10), 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 ~~s. 75.36 (7) sub. (3) (a)~~ plus 2% of the sale price plus all ~~delinquent taxes, interest, penalties and special assessments owed on the property sold~~ 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.

NOTE: Renumbers and amends a provision relating to distribution of any proceeds remaining from the sale of tax-deeded land by the county, after all costs of sale and all outstanding taxes, charges and assessments have been paid. This provision will be part of revised s. 75.36, relating to sale of property and disposition of proceeds.

This provision has been amended uniformly to apply to proceeds from the sale of all lands acquired by the county in the course of collection of delinquent taxes, rather than just those lands to which a tax deed under s. 75.14 was taken. Also, this provision has been limited to apply only to proceeds arising from the sale of what had been homestead property. The special committee concluded that there were sound policy reasons for limiting the distribution of proceeds to only those situations where homestead property was involved. See new s. 75.36 (3).

SECTION 121. 75.35 (6) of the statutes, as created by 1987 Wisconsin Act 27, is repealed.

NOTE: Repeals a provision requiring that the county repay delinquent special assessments from the proceeds received from the sale of land acquired in the course of collection of delinquent taxes. Under revised s. 75.36 (2), outstanding unpaid special assessments are paid from sale proceeds. Therefore, s. 75.35 (6) is no longer needed.

SECTION 122. 75.36 of the statutes is repealed and recreated to read:

**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.

(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).

(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. All expenses incurred by the county to obtain marketable title to the property, except that the time of county employes 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. 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.

NOTE: Revises s. 75.36 to attain congruency with revised ch. 74, as follows:

1. Subsection (1) creates a definition of "special assessment" for purposes of s. 75.36. The objective of the definition is to ensure that, when a county takes tax title to property, the lien of any special assessment, including that part of the lien that represents future instalments not yet due, merges fully in the county's title and is, in effect, extinguished. The county will thus be able to sell that property free of the lien of any special assessments that may otherwise apply to the property.

2. Subsection (2) (intro.) revises s. 75.36 (1) (c), by use of the defined term "tax deed", to provide that the section affects property acquired by a county under s. 75.14, 75.19 or 75.521. Current s. 75.36 (1) (c) is unclear concerning the scope of s. 75.36.

3. Subsection (2) (a) restates s. 75.36 (3). Further, par. (a) incorporates and revises s. 75.36 (9) (a) by deleting the reference to municipally owned taxes and certificates. Under s. 74.57, only counties will hold tax certificates. Also, the liens which merge into the county's title are clearly identified.

4. Subsection (2) (b) provides that, if a county does not settle in full for delinquent special assessments and special charges, the treasurer must notify taxing jurisdictions when the county takes title to property. Each taxing jurisdiction then certifies the amount of unpaid special assessments and special charges owing on the property, including all instalments payable in the future. The full amount of unpaid special assessments and special charges is then eligible for payment from the proceeds of the sale of the property, under sub. (3) (b).

5. Subsection (2) (c) restates s. 75.36 (9) (c) but deletes as unnecessary the reference to "transferred taxes".

6. Subsection (3) (a) revises s. 75.36 (7) by deleting as unnecessary the detailed enumeration of costs for obtaining marketable title to property which may be deducted by a county in determining the amount of the net proceeds from sale of the property.

7. Subsection (3) (b) revises s. 74.36 (8) by eliminating archaic terms, clarifying other terminology and eliminating inaccurate cross-references. A cross-reference to payment of managed forest land withdrawal taxes due under s. 77.84 (3) (b) is created. Last, sub. (3) (b) newly establishes a deadline for payment of proceeds to taxing jurisdictions. The deadline is similar to that applicable to distribution of redemption payments under recreated s. 75.05 (5).

8. Subsections (3) (c) and (4) relate to the distribution of any remaining proceeds to former owners of homestead property. See also the NOTE to s. 75.35 (5), which is renumbered s. 75.36 (2m).

As part of the revision of this section, the terms and provisions "adversely owned taxes", "municipally owned", "taken by tax deed" or "takes tax deed" are deleted as unnecessary or archaic. Because under s. 74.57, tax certificates will be issued only to the county and not to private entities, there is no reason to distinguish between "adversely owned taxes" and "municipally owned taxes". The terms "taken by tax deed" or "takes tax deed" are replaced by use of the newly defined term "tax deed" in sub. (3) (intro.).

The disposition of the remainder of s. 74.36 is as follows:

1. Subsection (2) is deleted as redundant. Under revised ch. 74, only counties will take tax certificates and, ultimately, tax title. Further, the requirement in sub. (2) that issuance of a tax deed on property be approved by the county board is more appropriately placed in s. 75.14, relating to issuance of tax deeds. See amended s. 75.14 (1).

2. Subsections (4) and (5) are deleted as archaic and unnecessary. Information on the delinquent special assessments and special charges assessed against property, which are the only 2 items for which the county is not required to settle in full in the August settlement, is required to be retained under s. 74.63 and is available as a matter of public record.

3. Subsection (6) is deleted as unnecessary and archaic. Section 75.365 authorizes counties to pay taxing jurisdictions delinquent amounts prior to the sale of the property. In addition, under s. 74.57, only counties will hold tax certificates so no "adversely owned" taxes will exist.

4. Subsection (9) (b) is deleted as unnecessary. County treasurers will keep records of delinquent special assessments and charges owed to taxing jurisdictions in order to comply with s. 75.36 (2).

5. Subsection (10) is deleted as archaic and unnecessary. Under revised ch. 74 and amended ch. 75, taxing jurisdictions no longer have an "ownership interest" in delinquent taxes.

6. Subsection (11) is deleted to be consistent with amended s. 75.365, under which no agreement between a county and a taxing jurisdiction may contain provisions contrary to s. 75.36.

SECTION 123. 75.365 (1), (2) and (4) of the statutes are amended to read:

75.365 (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 ~~special assessments, delinquent general taxes, or both~~; the disposition of ~~special assessment tax sale certificates, general tax sale certificates, or both~~, of which the county may be the holder or owner; the liabilities of the county arising by virtue of its acquiring ~~any or all of~~ such tax certificates, and the disposition of such liabilities; the taking of tax deeds by the county ~~or any or all of such tax sales certificates~~; the liabilities of the county arising out of the taking of ~~any or all of~~ such tax deeds and the disposition of such liabilities; ~~the disposition and distribution of the proceeds of the sale of any or all of such tax sale certificates~~, 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 any of such certificates or~~ 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 ~~special assessments, general taxes, or both~~, 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 ~~certificates or~~ bonds to preclude or relieve the county from being subjected to liability thereon.

(4) APPLICABILITY. This section shall be controlling and operative in respect to delinquent ~~general property taxes and special assessments~~ 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 ~~assessments and taxes, the general statutes to the contrary notwithstanding, but all provisions of the general statutes not in conflict herewith shall be~~ applicable, except that it does not repeal any of the provisions of the general statutes nor affect the applicability thereof to situations not covered herein.

NOTE: Amends s. 75.365 (1), (2) and (4), relating to agreements on delinquent taxes, as follows:

1. References to "tax sales certificates" are changed to "tax certificates" so that this section is consistent with s. 74.57, under which tax certificates are issued to the county rather than sold.

2. References to "special assessment tax sales certificates" and "special assessment certificates" are deleted because under s. 74.57 one general tax certificate will be issued whether the underlying delinquency is of general property taxes, special assessments, special charges or special taxes.

3. Deletes language which authorizes counties and taxing jurisdictions to enter into agreements contrary to provisions of the statutes.

4. Broadens the scope to apply to all delinquent "taxes", defined in new s. 75.001 (1), including property taxes, special assessments, special charges and special taxes, for purposes of uniformity.

SECTION 124. 75.37 of the statutes is amended to read:

**75.37 (title) 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 ~~or the city treasurer of any city which is authorized by law to sell its own delinquent taxes or assessments~~ in which such lands are situated, ~~in cases where the tax certificate is held by the county or such~~



city, shall issue a warrant under ~~his~~ 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 ~~or such city treasurer, as the case may be,~~ within 60 days after the receipt of the same; and pay over all money collected thereon to such treasurer; ~~provided, however, that no certificates shall be sold by the county treasurer or such city treasurer, in cases where warrants have been issued, unless the party applying to purchase the same shall pay all costs and charges incurred in the issuing and execution of said warrant. In case the tax certificate is not held by the county or such city the owner thereof shall have a lien upon any and all logs, wood, timber, buildings, fixtures and improvements assessed as real property, or materials salvaged therefrom, so cut, destroyed or removed from the lands to the amount of the tax certificate held by him against the same, together with all interest and charges thereon then remaining unpaid, and shall have the right 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 interest and charges thereon and the cost of seizure and sale, rendering any surplus upon such sale to the owner of the lands. No tax certificate holder who shall so cut, destroy or remove any logs, wood or timber, or any buildings, fixtures and other improvements assessed as real property upon any lands described in his certificate shall have any claim against the county or such city under s. 75.22.~~

NOTE: Amends s. 75.37, relating to waste on land on which there are delinquent taxes, to:

1. Reflect that tax-delinquent land is no longer sold; under revised ch. 74, a tax certificate is automatically issued to the county.
2. Delete references to cities authorized to sell their own delinquent taxes (i.e., Milwaukee) since, under revised ch. 74, all tax collection activities will be centralized in the county.
3. Remove reference to the sale of tax certificates, since the county is prohibited from selling certificates under revised s. 74.57 (3).
4. Adopt gender-neutral terminology.

SECTION 125. 75.375 of the statutes is amended to read:

**75.375 (title) 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 ~~have~~ has been ~~sold~~ included in a tax certificate for the nonpayment of taxes while such taxes remain unpaid ~~or in cases where the tax certificate is the property of the county shall be punished by a fine of~~ may be fined not more than \$500; or ~~by imprisonment in the county jail imprisoned not more than 90 days or by both such fine and imprisonment.~~

NOTE: Amends s. 75.375, relating to a penalty for waste on lands on which there are delinquent taxes, to:

1. Reflect that tax-delinquent lands are no longer sold under revised ch. 74.
2. Reflect that the county, in all cases under revised ch. 74, will hold the tax certificate.
3. Update terminology.

SECTION 126. 75.38 of the statutes is repealed.

NOTE: Repeals a provision requiring the county clerk to collect a fee for every deed issued upon a tax sale certificate. Under revised ch. 74, persons other than the county will not take deeds, since they will not hold tax certificates. In all cases, the county will take the deed. Within this context there does not appear to be any need for imposition of a fee by the clerk.

SECTION 127. 75.39 of the statutes is amended to read:

**75.39 Action to bar former owner.** The A county, as the grantee named in any deed made by a county clerk or the treasurer of any incorporated city or village on the sale of lands for the nonpayment of taxes as provided by law, his heirs, executors, administrators or assigns, which conveys lands subject to a tax certificate which has not been redeemed may, at any time within three 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 of making the sale 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; but no such action shall be commenced on any such deed issued in lieu of a void, informal or insufficient deed unless the same be commenced within three years after the date of such void, informal or insufficient deed.

NOTE: Amends s. 75.39, relating to commencement of an action to bar former owners, to:

1. Clarify that only the county, which will be the grantee in all tax deeds, may bring such an action.
2. Remove language referring to deeds issued in lieu of void, informal or insufficient deeds, since s. 75.18, which formerly authorized such deeds, has been repealed.

SECTION 128. 75.40 of the statutes is amended to read:

**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; ~~and the~~ The county, as plaintiff in such action, may include in his its complaint all the lands described

in such conveyance, or any separate parcel, or as many separate parcels thereof as ~~he shall see it sees fit; and he.~~ The county shall make defendants of all persons who were the former owners of the several parcels of land included in his the complaint or those claiming under them or claiming any interest therein.

NOTE: Amends s. 75.40, relating to venue and pleadings in an action to bar former owners, to reflect that the county will always be the plaintiff in such actions.

SECTION 129. 75.41 of the statutes is amended to read:

**75.41 Complaint.** The plaintiff complaint in such action shall set forth in his complaint contain: a description of all the lands the title to which is sought to be barred by such action; a statement that he the county claims title to such lands under a deed made by a the county clerk or the treasurer of an incorporated city or village, and set forth therein a copy of such deed; he shall also set forth 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 paid by him, including redemptions; and if such plaintiff have more than one such deed upon any parcel of land mentioned in such complaint, upon which he might bring such action, he shall set forth in such complaint a copy of each such deed, but as a separate cause of action at the time the deed was issued.

NOTE: Amends s. 75.41, relating to the form of the complaint in an action to bar former owners, to reflect that only counties will bring those actions. The last clause was deleted as no longer necessary. Under revised s. 74.57 and amended s. 75.01 (3), a single tax certificate will be issued on tax-delinquent land and only a single tax deed will be issued.

SECTION 130. 75.42 of the statutes is amended to read:

**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 ~~sold~~ 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 ~~be sold~~ have been included in a tax certificate was in fact paid before ~~such sale~~ the land was included in the certificate; or that the land was redeemed from such sale as provided by law; ~~or that the title to said land has become vested adversely to the plaintiff in the action under and by virtue of another tax deed;~~ 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 ~~sum for which~~ amount of all delinquent taxes, plus interest and penalty, due on the parcel or parcels of land as to which they defend were sold, at the time the deed was issued, together with interest thereon at the rate of 8 per cent % per year from the date of the tax certificate of sale for taxes upon which such deed was issued; and also all such sums as shall have been paid by the plaintiff for subsequent taxes on such parcel or parcels, with interest thereon from the time of payment at the rate of 8 per cent per year to the time of making such deposit; 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 plaintiff 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 plaintiff's 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 plaintiff 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 plaintiff county.

(2) The defendant may, in all cases within the time limited by law for answering the complaint, execute and deliver to the plaintiff or his attorney 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 plaintiff 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's attorney fees in excess of twenty-five dollars \$25.

NOTE: Amends s. 75.42, relating to the defendant's answer in an action to bar former owners, to:

1. Reflect that the county will always be the plaintiff in such actions.
2. Reflect that tax-delinquent lands are no longer sold, under revised ch. 74.
3. Delete language relating to multiple tax deeds on a single parcel, with one adverse to another, since only the county will take such deeds and will take only one per parcel.
4. Clarify that the deposit which must be made by the defendant if additional defenses are to be alleged is the functional equivalent of the previous amount; i.e., the sum of all delinquencies, plus interest and penalty, at the time of deed issuance, rather than the amount of delinquent taxes in the initial year of delinquency plus all other subsequent taxes paid by the plaintiff.

SECTION 131. 75.43 of the statutes is amended to read:

**75.43 Election to receive deposit; costs.** The plaintiff county may, at any time within ~~twenty~~ 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 ~~he it~~ elects to receive such deposit and that ~~he 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 ~~he the county~~ will release to such defendant or defendants all right, title and claim which ~~he it~~ has to the parcel or parcels of land on account of which such deposit is made by virtue of any ~~sale or~~ deed made for the nonpayment of taxes; and unless such costs are paid within ~~twenty~~ 20 days after the same shall have been so adjusted the clerk of the court shall, upon presentation ~~to him~~ of an affidavit showing the nonpayment thereof, enter judgment therefor in favor of the plaintiff county and against the defendant, which shall be enforced as other money judgments.

NOTE: Amends s. 75.43, relating to the plaintiff's election to take the deposit and release all claims, in an action to bar former owners, to reflect that counties will always be the plaintiffs in those actions.

SECTION 132. 75.44 of the statutes is amended to read:

**75.44 Release.** On the payment of the costs by such defendant or defendants or the collection thereof the ~~said plaintiff 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.

NOTE: Amends s. 75.44, relating to a release by the plaintiff in an action to bar former owners, to clarify that the county will always be the plaintiff in those actions.

SECTION 133. 75.45 of the statutes is amended to read:

**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 certi-

fied copy of the record thereof, shall be presumptive evidence of an absolute title in fee simple in the county, as the grantee therein named, ~~his heirs or its~~ assigns in and to the land therein described.

NOTE: Amends s. 75.45, relating to deeds as evidence in an action to bar former owners, to clarify that the county will always be the named grantee in a tax deed.

SECTION 134. 75.46 of the statutes is amended to read:

**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 plaintiff's county's complaint in respect to which any relief or judgment is sought against such defendant, unless it be otherwise alleged therein.

NOTE: Amends s. 75.46, relating to the trial and defendant's interest in an action to bar former owners, to clarify that the county will always be the plaintiff in such actions.

SECTION 135. 75.48 of the statutes is amended to read:

**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 plaintiff 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.

NOTE: Amends s. 75.48, relating to the effect of the judgment in an action to bar former owners, to clarify that the county will always be the plaintiff in such actions.

SECTION 136. 75.49 of the statutes is amended to read:

**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 plaintiff's county's right, title or claim, at the time of the commencement of the action, by virtue of any ~~sale or~~ deed made for the nonpayment of taxes to the land or interest as to which such judgment is rendered, and that the defendant recover ~~his 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 plaintiff county.

NOTE: Amends s. 75.49, relating to the effect of a judgment for the defendant in an action to bar former owners, to:

1. Reflect that the county will always be the plaintiff in such actions.

2. Adopt gender-neutral terminology.

SECTION 137. 75.50 of the statutes is amended to read:

**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 ~~his~~ the complaint ~~he~~, it may allege the fact in ~~his~~ the complaint and they may be proceeded against as nonresident defendants and shall be described in the proceedings as unknown owners.

NOTE: Amends s. 75.50, relating to the ways in which to proceed against unknown owners in an action to bar former owners, to clarify that the county will always be the plaintiff in such actions.

SECTION 138. 75.521 (1) (a) to (c) and (2) (a) of the statutes are amended to read:

75.521 (1) (a) "County" means one of the counties of the state of Wisconsin ~~and includes any city of the state authorized by law to collect and sell its own taxes.~~

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

(c) "Treasurer" means ~~either~~ the treasurer of ~~such a~~ county ~~or of such city.~~

(2) (a) *Adoption of method.* Notwithstanding the provisions of any other general, special or local law ~~or charter provision of such city~~ relating to foreclosure of tax sale certificates, taking of tax deeds upon ~~such~~ tax sale 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 ~~of such county~~ need not, thereafter, proceed upon its tax sale 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 ~~his~~ the treasurer's option.

NOTE: Amends that portion of s. 75.521 which provides definitions and the procedure for adoption of the foreclosure of tax liens by action in rem method, to:

1. Clarify that only counties may use the method. Under revised ch. 74, no city will be authorized to collect and sell its own taxes.

2. Reflect that tax delinquent lands are no longer sold; rather, the tax certificate is automatically issued to the county.

SECTION 139. 75.521 (3) (a) (intro.) of the statutes is amended to read:

75.521 (3) (a) (intro.) Whenever any land has been ~~sold to the county for delinquent taxes 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 ~~delinquent tax rolls 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 sale certificate:

SECTION 140m. 75.521 (3) (a) 2 and 3 of the statutes are amended to read:

75.521 (3) (a) 2. One year, if the tax sale certificate is held by any city authorized ~~by law to collect and sell its own taxes~~ to proceed under s. 74.87.

3. One year, if the tax sale certificate is held by any county and the certificate applies to property located in a city authorized ~~by law to collect and sell its own taxes~~ proceed under s. 74.87.

SECTION 141. 75.521 (3) (a) 4 of the statutes is amended to read:

75.521 (3) (a) 4. ~~Three~~ Two years, if none of the conditions specified in subs. 1 to 3 applies.

NOTE: This SECTION and the 2 preceding SECTIONS revise s. 75.521 (3) (a), relating to filing lists of tax liens in the office of the clerk of circuit court and time for filing, to:

1. Clarify that tax-delinquent lands are no longer sold for taxes; rather, a tax certificate is issued to the county.

3. Reflect the shortening of the general period of redemption from 3 years to 2 years by revised s. 74.57 (2) (b).

SECTION 142. 75.521 (3) (am) 5 and (c) of the statutes are amended to read:

75.521 (3) (am) 5. The names of all municipalities, other than the ~~municipal taxing district~~ foreclosing county, having any right, title or interest in the land or in the tax liens or in the proceeds thereof.

(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 ~~municipal taxing district~~ 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 mail-

ing, 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.

NOTE: Amends s. 75.521 (3) (am) 5 and (c) to clarify that only counties will foreclose tax liens by action in rem.

SECTION 143. 75.521 (3m) (b) of the statutes is amended to read:

75.521 (3m) (b) The common council of any city authorized ~~by law to collect and sell its own taxes~~ 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 to 3. 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.

SECTION 144. 75.521 (5) of the statutes is amended to read:

75.521 (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 ~~one foreclosing 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, 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 ~~him~~ 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 ~~he~~ the person may have against said lands and to have interest thereon until paid.

NOTE: Amends s. 75.521 (5) to clarify that the county forecloses tax liens by action in rem. Also, gender-neutral terminology is employed.

SECTION 145. 75.521 (7) (a) 1 and 2 of the statutes are amended to read:

75.521 (7) (a) 1. That the lands in which such person is interested, described in such list of tax liens, were not liable to taxation ~~or~~, special assessment, special charge or special tax at the time the tax ~~or~~, 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.

NOTE: Amends s. 75.521 (7) (a) 1 and 2, relating to permissible grounds for objection to foreclosure of tax liens by action in rem, to clarify that tax liens can arise from nonpayment of real property taxes, special assessments, special charges or special taxes.

SECTION 146. 75.521 (10) of the statutes is amended to read:

75.521 (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 ~~or~~, 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 ~~or~~, 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).

NOTE: Amends s. 75.521 (10), relating to contested issues in a foreclosure of tax lien by action in rem, to clarify that tax liens can arise from nonpayment of real property taxes, special assessments, special charges or special taxes.

SECTION 147. 75.521 (12) (a) of the statutes is amended to read:

75.521 (12) (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 ~~or~~, special assessment, special charge or special tax, because of which said land was not liable to taxation ~~or~~, special assessment or other lawful charge, must particularly specify in ~~his~~ the defendant's answer such jurisdictional defect or invalidity and must affirmatively establish such defense.

NOTE: Amends s. 75.521 (12) (a), relating to presumption of validity in a foreclosure of tax lien by action in rem, to clarify that special charges and special taxes, as well as real property taxes and special assessments, are entitled to a presumption of validity unless proven otherwise.

SECTION 148. 75.521 (14a) of the statutes is amended to read:

75.521 (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 ~~his~~ 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 ~~(a)~~ said person's interest in such lands was not subject to taxation ~~or~~, 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 ~~(b)~~ that in fact such tax, special assessment, special charge or special tax was paid by said owner, or ~~(c)~~ that the tax lien upon which the judgment of foreclosure in rem was based was barred by the statute of limitations, or ~~(d)~~ 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 a reasonable attorney's 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 ~~sales~~ 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.

NOTE: Amends s. 75.521 (14a), relating to an action for damages by a person whose interest in property has been terminated by an action in rem, to:

1. Clarify that nonpayment of special assessments, special charges or special taxes can result in a tax lien.
2. Adopt gender-neutral terminology.

SECTION 149. 75.521 (16) of the statutes is repealed.

NOTE: Repeals, as no longer necessary, a provision allowing retroactive application of the procedure for foreclosure of tax liens by action *in rem* to tax certificates dated before April 1, 1948.

SECTION 150. 75.61 of the statutes is amended to read:

**75.61 (title) Actions related to tax certificates.** (1) ONE-YEAR LIMITATION. Every action enumerated in s. 75.57, 1955 stats., and s. 66.635, and every action or proceeding to set aside any ~~sale of lands~~ 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 ~~such tax sale~~ issuance of the tax certificate under s. 74.57, and not thereafter. In every action brought to set aside any such ~~sale~~ 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 ~~or~~, 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 ~~person or persons claiming under such tax sale or county or city authorized to act under s. 74.87 holding the tax certificate the amount for which such land was sold, and the amount paid by such person or persons for taxes levied upon the premises subsequent to such sale 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 non-payment of which such deed or tax certificate was issued.

(2) TAX CERTIFICATES OF COUNTY, DISCOUNT ON. Whenever the county ~~owns and~~ holds tax certificates upon real estate and the owner of said real estate or any person, firm, association or corporation 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 ~~he, 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.

NOTE: 2. Clarifies that failure to pay special charges and special taxes can result in inclusion of property in a tax certificate.

SECTION 151. 75.62 (1) of the statutes is amended to read:

75.62 (1) **CONDITIONAL PAYMENT.** Whenever any action or special proceeding is hereafter commenced to set aside any ~~sale of lands~~ 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.

NOTE: Amends s. 75.62 (1), relating to a conditional payment in an action challenging any of a number of tax collection procedural steps, to clarify that tax-delinquent lands are no longer sold. Under revised ch. 74, such lands are automati-

cally included in the tax certificate annually issued to the county.

SECTION 152. 75.64 of the statutes is amended to read:

**75.64 No jurisdiction; issue of deed postponed; deposit.** (1) In all cases to set aside any sale 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 ~~sold or described~~ included in the certificate were not liable to taxation or because the taxes on the lands were paid prior to the sale 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 ~~or, if the certificate was issued by the city treasurer, with the city treasurer~~ the amount for which the lands ~~were sold~~ are delinquent, with interest from the date of the sale inclusion in the tax certificate to the date of the deposit and penalty as provided under s. ~~74.80~~ 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 sale 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. ~~74.80~~ 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.

NOTE: Amends s. 75.64, relating to various challenges to proceedings to collect delinquent taxes, to:

1. Clarify that tax-delinquent lands are no longer sold. Under revised ch. 74, they are automatically included in the tax certificate issued to the county.

2. Delete a reference to issuance of a tax certificate by a city treasurer. Under revised ch. 74, only county treasurers issue tax certificates.

3. Correct cross-references.

SECTION 153. 75.67 (1) to (3) of the statutes are amended to read:

75.67 (1) In counties having a population of 500,000 or more containing a city authorized to ~~sell land for nonpayment of its taxes~~ proceed under s. 74.87, whenever either such county or city acquired, subsequent to January 1, 1933, acquires any property by tax deed, ~~or foreclosure deed, upon its delinquent owned tax certificates~~ or by quitclaim deed or by any

other means, the ~~assignment or sale~~ issuance of other tax certificates and the redemption and cancellation thereof shall be as provided by this section.

(2) All tax certificates issued upon a ~~sale of~~ such property by such county or city on the same day or subsequent to the date of ~~sale~~ 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 ~~only be sold by assignment or otherwise assigned~~ to such county or city so owning such property. On any ~~tax sale 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 ~~purchaser~~ recipient of the tax certificates ~~and the county or the city treasurer shall bid in and purchase the same.~~ Any ~~transfer or sale 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 ~~twenty-four~~ 24 hours, Sundays and holidays excluded, after such tax deed, ~~foreclosure 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 ~~his sales~~ the treasurer's records.

(3) (a) Whenever such property has been so acquired ~~as a result of tax sale before or after March 14, 1941,~~ 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 installments of special assessments and other assessments, charges and tax certificates which are liens upon the land, and which are ~~owned or 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 ~~him~~ 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 ~~him~~ 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 ~~him~~.

(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. ~~He~~ 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.

SECTION 153m. 75.67 (4) of the statutes, as created by 1987 Wisconsin Act 27, is repealed.

SECTION 154. 75.68 of the statutes is repealed.

NOTE: Repeals a provision which allows the consideration for which land acquired by tax deed is sold to be the same as, or more or less than, the full value ordinarily obtainable at a private sale. Repeal appears to be warranted because s. 75.68 appears to contradict s. 75.69, due to the last sentence of the former section. That sentence states that all those sales are also subject to s. 75.69; s. 75.69, however, requires that selling prices, at a minimum, equal the appraised value.

SECTION 155. 75.69 (1) and (3) of the statutes are amended to read:

75.69 (1) Except as provided in sub. (1m), no tax delinquent real estate acquired by a ~~municipality as defined in s. 75.35 (1) (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 ~~such municipality county~~ may accept the bid most advantageous to it but every bid less than the appraised value of the property shall be rejected. Any ~~such municipality county~~ is authorized to sell for an amount equal to or above the appraised value, without readvertising, any land previously advertised for sale.

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

NOTE: Amends portions of s. 75.69, relating to sales of tax-delinquent real estate, to clarify that only counties will have such land to sell. Under revised ch. 74 and amended ch. 75, only counties will be grantees on tax deeds.

SECTION 156. 75.70 of the statutes is repealed.

NOTE: Repeals a provision superseded by the settlement procedure under revised ch. 74.

SECTION 157. 77.04 (2) of the statutes is amended to read:



77.04 (2) TAX PER ACRE; PAYMENT; PENALTY. The "acreage share" shall be computed at the rate of 10 cents per acre on all lands entered prior to 1972. On all lands entered after December 31, 1971, the "acreage share" shall be computed every 10 years to the nearest cent by the department of revenue at the rate of 20 cents per acre multiplied by a ratio using the equalized value of the combined residential, commercial, manufacturing, agricultural, swamp, or waste and productive forest land classes under s. 70.32 (2) within the state in 1972 as the denominator, and using equalized value for these combined land classes in 1982 and every 10th year thereafter as the numerator. All owners shall pay to the taxation district treasurer the acreage share on each description on or before the last day of February, except that if the owner pays general property taxes in instalments the acreage share shall be paid in full with the first instalment of the owner's general property taxes January 31. If the acreage share is not paid when due to the taxation district treasurer it shall be subject to interest and penalty as provided under s. 74.80 from the preceding January 1 ss. 74.11 (11), 74.12 (10) and 74.47. These lands shall be returned as delinquent and sold for delinquent taxes as provided for the sale of lands for taxes but no bid shall be received for the sale except from the county, and the county shall not be liable to the taxation district for any amount except the acreage share subsequently paid by the owner a tax certificate under subch. VII of ch. 74 shall be issued on them. After 3 2 years from the sale of any tax certificate acquired by the county under this subsection date of the issuance of a tax certificate, the county clerk shall promptly take a tax deed under s. 75.36, except that county board authorization shall not be required ch. 75. On taking such deed the county clerk shall certify that fact and specify the descriptions to the department of natural resources.

NOTE: Revises s. 77.04 (2), relating to forest crop lands, as follows:

1. Changes to January 31 the date payment of the owner's acreage share is due. This is consistent with the payment date for other special taxes, as defined in s. 74.01 (5), under s. 74.11.
2. Interest on delinquent payments is computed from the date of the delinquency rather than the preceding January 1. This is consistent with the way interest is computed on other delinquent payments under s. 74.11 (11).
3. Reference to the sale of tax certificates is deleted because, under revised s. 74.57, tax certificates will be issued only to the county rather than sold.
4. Reflects the reduction of the general period of redemption from 3 to 2 years.
5. Amends a cross-reference to s. 75.36, in order to allow tax title to be taken by any of the methods provided in ch. 75.

SECTION 158. 77.16 (6) of the statutes is amended to read:

77.16 (6) The owner shall be liable and shall pay to the taxation district or city treasurer a tax computed at the rate of 20 cents per acre on all lands entered prior to 1977. All owners shall pay that tax on or

~~before the last day of February, except that if the owner pays general property taxes in instalments the tax shall be paid in full with the first instalment of the owner's general property taxes January 31.~~ On all lands entered or renewed after December 31, 1976, the rate shall be 40 cents per acre through 1982. In 1982 and at 10-year intervals thereafter the per acre rate shall be recalculated using the method specified in s. 77.04 (2) and rounded to the nearest cent. Such acreage tax shall be subject to collection in the same manner as is the forest croplands tax under s. 77.04 (2).

NOTE: Revises s. 77.16 (6), relating to the woodland tax law, by changing the payment date to January 31. This is consistent with the payment date for other special taxes, as defined in s. 74.01 (5), under s. 74.11.

SECTION 159. 77.84 (2) (a) and (b) and (3) of the statutes are amended to read:

77.84 (2) (a) Each owner of managed forest land shall pay to the municipal treasurer an acreage share of 74 cents per acre on or before the last day of February of each year, except that if the owner pays general property taxes in instalments the full amount due shall be paid with the first instalment January 31.

(b) In addition to the payment under par. (a), each owner shall pay \$1 for each acre that is designated as closed under s. 77.83. The payment shall be made to the municipal treasurer on or before the last day of February in each year, except that if the owner pays general property taxes in instalments the full amount due shall be paid with the first instalment January 31.

(3) DELINQUENCY. (a) ~~If the amounts due under sub. (2) are not paid by the due date, the taxes on the land shall be returned delinquent under s. 74.17. The interest specified under s. 74.80 (1) applies from the preceding January 1.~~ The procedures specified for the collection of delinquent taxes under ch. 74, and for the sale of land for delinquent taxes under ch. 75 apply to taxes returned delinquent under this subsection. ~~Only the county in which the land is located may bid on the land under s. 74.33, and if the county purchases the land, it is not liable to the municipality for any amount except any amount of the acreage share subsequently paid by the former owner.~~ Immediately upon the expiration of 3 2 years after the date the county acquires land under this subsection a tax certificate, the county clerk shall take a tax deed as provided under s. 75.36, except that county board approval is not required ch. 75. The county clerk shall certify to the department that a tax deed has been taken and shall include the legal description of the land subject to the tax deed.

(b) Immediately after receiving the certification of the county clerk that a tax deed has been taken, the department shall issue an order withdrawing the land as managed forest land. The notice requirement under s. 77.88 (1) does not apply to the department's action under this paragraph. The department shall notify the county treasurer of the amount of the withdrawal tax, as determined under s. 77.88 (5), and the

~~county treasurer shall recover that amount from the proceeds of the tax sale and pay the amount recovered to the department amount of the tax shall be payable to the department under s. 75.36 (3) if the property is sold by the county. The amount shall be credited to the conservation fund.~~

NOTE: Revises s. 77.84 (2) (a) and (b) and (3) so that procedures for collection of taxes on managed forest lands are consistent with the collection of other special taxes, as defined in s. 74.01 (5), under chs. 74 and 75. Also amends a cross-reference to s. 75.36 in order to allow tax title to be taken by any of the methods provided in ch. 75.

SECTION 160. 77.89 (3) of the statutes is amended to read:

77.89 (3) CONSERVATION FUND CREDIT. The municipal treasurer shall pay all amounts received under s. 77.84 (2) (b) to the county treasurer, as provided under ~~s. 74.03 (5) or 74.031 (8)~~ ss. 74.25 and 74.30. The county treasurer shall, by June 30 of each year, pay all amounts received under this subsection to the department. All amounts received by the department shall be credited to the conservation fund and shall be reserved for land acquisition and resource management activities.

NOTE: Revises s. 77.89 (3) to be consistent with the new tax payment and settlement procedures under ch. 74.

SECTION 161. 79.10 (7m) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

79.10 (7m) DISTRIBUTION TO MUNICIPALITIES. On the 4th Monday in July, commencing in 1987, the amount appropriated under s. 20.835 (3) (a) and (b) shall be distributed by the department of administration to towns, villages and cities as determined under subs. (4) and (5) and s. 79.105. The town, village or city treasurer shall settle for the amounts distributed under subs. (4) and (5) and s. 79.105 with the appropriate county treasurer ~~on the next regular settlement date under s. 74.03 (5) or with the appropriate treasurers of each taxing jurisdiction on the next regular settlement date under s. 74.031 (8) following the town's, village's or city's receipt of those amounts, but that settlement may not be made later than August 15.~~ Failure to settle timely under this section subjects the town, village or city treasurer to the penalties under s. ~~74.22~~ 74.31. On or before August 20, the county treasurer shall use the amounts distributed under subs. (4) and (5) and s. 79.105 to settle with each taxing jurisdiction, including towns, villages and cities except 1st class cities ~~and except taxing jurisdictions settling under s. 74.031, in the county.~~

NOTE: Revises s. 79.10 (7m) to reflect the deletion of s. 74.031 and to make settlement of amounts under this section by the county consistent with s. 74.29.

SECTION 162. 79.10 (9) (c) of the statutes is amended to read:

79.10 (9) (c) The amount of the state property tax credits of particular property taxpayers, as determined under par. (b), shall be set forth in the manner provided in s. ~~70.665~~ 74.09 on the tax bills of those taxpayers issued immediately following the December

1 notification referred to in this subsection and shall reduce the property taxes otherwise payable.

NOTE: Corrects a cross-reference.

SECTION 163. 88.18 (2) (b), (c) and (d) of the statutes are repealed.

NOTE: Repeals s. 88.18 (2) (b), (c) and (d) as unnecessary because subch. VII of ch. 74 will govern the collection of delinquent drainage assessments, and under s. 74.57 only one tax certificate which covers all delinquent payments of general property taxes, special assessments, special charges and special taxes will be issued to the county. In addition, counties may not sell or assign tax certificates.

SECTION 164. 88.42 (4) of the statutes is amended to read:

88.42 (4) All drainage assessments collected by the local town, village or city treasurer shall be ~~paid over forthwith to settled~~ under s. 74.23, 74.25 or 74.30 with the county treasurer of the county whose court has jurisdiction of the district, and such local treasurer shall obtain and file the proper receipt therefor. The county treasurer shall promptly credit the amounts so received to the drainage districts entitled thereto.

NOTE: Amends s. 88.42 (4) so that drainage assessments entered on the tax roll which are paid to the taxation district treasurer are settled for under the general procedures for settlement of general property taxes, special assessments, special charges and special taxes.

SECTION 165. 88.43 (1) of the statutes is amended to read:

88.43 (1) If the amounts certified to the town, village or city clerk under s. 88.42 are not collected by the town, village or city treasurer, such treasurer shall return them to the county treasurer, in the same manner and at the same time as delinquent taxes, but separately therefrom. The county treasurer shall ~~advertise the same in his list of lands to be sold for unpaid taxes, and unless they are paid to him prior to the tax sale, he shall sell such lands for the taxes and drainage assessments against the same, treating such drainage assessments the same as, but keeping them separate from the unpaid taxes on his records. When he issues certificates of sale of land for taxes and drainage assessments, he shall issue a separate certificate for the amount of drainage assessments and accrued interest thereon collect unpaid drainage assessments under~~ subch. VII of ch. 74 of the statutes.

NOTE: Amends s. 88.43 (1) to reflect new s. 74.57, under which only one tax certificate, which covers all delinquent payments of general property taxes, special assessments, special charges and special taxes will be issued to the county.

SECTION 166. 88.43 (2) and (3) of the statutes are repealed.

NOTE: Repeals s. 88.43 (2) and (3) as unnecessary because subch. VII of ch. 74 will govern the collection of delinquent drainage assessments and under s. 74.57 only one tax certificate which covers all delinquent payments of general property taxes, special assessments, special charges and special taxes will be issued to the county.

SECTION 167. 88.82 (2) (b) of the statutes is amended to read:

88.82 (2) (b) The lands of the district have been assessed to the full amount of the confirmed assessed

benefits and such assessments either have been paid in full or ~~a sale of all delinquent lands has been had as authorized by s. 88.43~~ tax certificates have been issued for the lands under s. 74.57.

NOTE: Amends s. 88.82 (2) (b) to reflect s. 74.57, under which tax certificates are issued only to the county.

SECTION 168. 146.14 (2) and (5) of the statutes are amended to read:

146.14 (2) If a nuisance, caused by improper sewerage disposal facilities, is found on private property the local health officer or the chairman of the local board of health shall notify the owner and the occupant of such property by registered mail with return receipt requested of the presence of such nuisance and order its abatement or removal within 30 days of receipt of notice. The officer shall also notify the local governing body of the nuisance. If the nuisance is not corrected by that date, the local governing body shall immediately enter upon the property and abate or remove the nuisance or may contract to have the work performed. The nuisance shall be abated in a manner which is approved by the department of industry, labor and human relations. The cost thereof may be recovered from the person permitting such violation or may be paid by the municipal treasurer and such account, after being paid by the treasurer, shall be filed with the municipal clerk, who shall enter the amount chargeable to the property in the next tax roll in a column headed "For Abatement of a Nuisance" as a special tax on the lands upon which such nuisance was abated, which tax shall be collected as are other taxes. In case of railroads or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the land specified, and the treasurer shall collect the same as prescribed in subch. I of ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance may also be fined not more than \$300 or imprisoned not more than 90 days or both. The only defenses an owner shall have against the collection of a tax under this subsection are that no nuisance existed on the owner's property, that no nuisance was corrected on the owner's property, that the procedure outlined in this subsection was not followed or any applicable defense under s. ~~74.135~~ 74.33. If a nuisance resulted from any other cause or source, the local board of health or town sanitary district commission shall order its abatement within 24 hours, and if the owner or occupant fails to comply, he or she shall forfeit not less than \$25 nor more than \$100, and the board or commission may abate or remove the nuisance.

(5) The cost of abatement or removal of a nuisance under this section may be at the expense of the municipality and may be collected from the owner or occupant, or person causing, permitting or maintaining the

nuisance, or may be charged against the premises and, upon certification of the health official, assessed as are other special taxes. In cases of railroads or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the land specified, and the treasurer shall collect the same as prescribed in subch. I of ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance may also be fined not more than \$300 or imprisoned not more than 90 days or both. The only defenses an owner shall have against the collection of a tax under this subsection are that no nuisance existed on the owner's property, or that no nuisance was corrected on the owner's property, or that the procedure outlined in this subsection was not followed, or any applicable defense under s. ~~74.135~~ 74.33.

NOTE: Corrects cross-references.

SECTION 169. 174.065 (3) of the statutes is amended to read:

174.065 (3) COLLECTION OF DELINQUENT DOG LICENSE TAXES. Delinquent dog license taxes may be collected in the same manner as in s. ~~74.11~~ 74.55 and ch. 799 for the collecting of personal property taxes.

NOTE: Corrects a cross-reference.

SECTION 170. 195.60 (3) of the statutes is amended to read:

195.60 (3) If any railroad against which a bill has been rendered under sub. (1) or (2) within 30 days after the rendering of such bill ~~a) neglects or refuses to pay the same; or b) fails to file objections to the bill with the office,~~ the office shall transmit to the state treasurer a certified copy of the bill, together with notice of neglect or refusal to pay the bill, and on the same day the office shall mail to the railroad against which the bill has been rendered a copy of the notice which it has transmitted to the state treasurer. Within 10 days after the receipt of such notice and certified copy of such bill the state treasurer shall levy the amount stated on such bill to be due, with interest, by distress and sale of any goods and chattels, including stocks, securities, bank accounts, evidences of debt, and accounts receivable belonging to such delinquent railroad. Such levy by distress and sale shall be governed by the provisions of s. 74.10, 1985 stats., except that it shall be made by the state treasurer and that said goods and chattels anywhere within the state may be levied upon.

NOTE: Corrects a cross-reference.

SECTION 171. 196.85 (3) of the statutes is amended to read:

196.85 (3) If any public utility, sewerage system or power district is billed under sub. (1) or (2) and fails to pay the bill within 30 days or fails to file objections to the bill with the commission, as provided in this sub-

section, the commission shall transmit to the state treasurer a certified copy of the bill, together with notice of failure to pay the bill, and on the same day the commission shall mail by registered mail to the public utility, sewerage system or power district a copy of the notice which it has transmitted to the state treasurer. Within 10 days after the receipt of notice and certified copy of the bill the state treasurer shall levy the amount stated on the bill to be due, with interest, by distress and sale of any property, including stocks, securities, bank accounts, evidences of debt, and accounts receivable belonging to the delinquent public utility, sewerage system or power district. The levy by distress and sale shall be governed by s. 74.10, 1985 stats., except that it shall be made by the state treasurer and that goods and chattels anywhere within the state may be levied upon.

NOTE: Corrects a cross-reference.

SECTION 172. 757.69 (3) (d) of the statutes is amended to read:

757.69 (3) (d) Supervise accountings subsequent to a ~~forced tax~~ sale of land under ch. 75.

NOTE: Amends s. 757.69 (3) (d), relating to the powers of court commissioners, to provide a more specific reference to the procedures under which property is sold for delinquent taxes, charges and assessments.

SECTION 173. Subchapter XII (title) of chapter 779 of the statutes is created to read:

CHAPTER 779  
SUBCHAPTER XII  
LIENHOLDER; ACQUISITION OF PRIOR LIEN  
(to precede s. 779.98)

NOTE: Provides a title for a new subchapter. The bill rennumbers s. 74.695 to be s. 779.98.

SECTION 174. 799.01 (intro.) of the statutes is amended to read:

**799.01 Applicability of chapter.** (intro.) Subject to the limitations of ss. 799.11 and 799.12 and except as provided under sub. (3m), the procedure in this chapter is the exclusive procedure to be used in circuit court in the actions specified in subs. (1) to (4), if all the defendants reside within the state and can be personally served in the state, and the procedure is permissive in those actions otherwise. The applicable actions are:

NOTE: Reflects that part of new sub. (3m) providing that ch. 799 (small claims actions) is not the exclusive procedure for actions brought by counties to recover delinquent personal property taxes.

SECTION 175. 799.01 (3m) of the statutes is created to read:

799.01 (3m) **RECOVERY OF DELINQUENT PERSONAL PROPERTY TAXES.** Actions by cities, villages and towns to recover delinquent personal property taxes, including interest and penalties, against a person liable for the taxes. This chapter is not the exclusive procedure for those actions.

SECTION 176. 823.06 of the statutes is amended to read:

**823.06 Expense of abating, how collected.** The expense of abating such nuisance pursuant to such warrant shall be collected by the officer in the same manner as damages and costs are collected upon execution or may be collected by finding the defendant personally liable for these expenses, as provided in s. ~~74.58~~ 74.53. The officer may sell any material of any fences, buildings or other things abated or removed as a nuisance as personal property is sold upon execution and apply the proceeds to pay the expenses of such abatement, paying the residue, if any, to the defendant.

NOTE: Corrects a cross-reference.

SECTION 177. 823.22 (4) of the statutes is amended to read:

823.22 (4) The receiver appointed pursuant to this chapter shall have a lien, for the expenses necessarily incurred in the execution of the order, upon the premises upon or in respect of which the work required by said order has been done or expenses incurred. The municipality that sought the order declaring the property to be a public nuisance may also recover its expenses and the expenses of the receiver under subs. (3) (a) and (5) by maintaining an action against the property owner under s. ~~74.58~~ 74.53.

NOTE: Corrects a cross-reference.

SECTION 178. 891.11 (1) of the statutes is amended to read:

891.11 (1) All books and files in the office of any county treasurer or county clerk, all assessments and tax rolls and certificates ~~and warrants thereto attached~~, all notices required to be published or posted by the county treasurer or county clerk, and the proofs of publication or posting filed in the office of either, pursuant to any law relating to the assessment or collection of taxes or to lands ~~sold for taxes included in a tax certificate under s. 74.57~~, shall be received as presumptive evidence of the facts therein stated.

NOTE: Amends a provision relating to presumptions to reflect that tax-delinquent lands are no longer sold; rather, under revised ch. 74, a tax certificate is issued to the county.

SECTION 179. 946.13 (2) (e) of the statutes is amended to read:

946.13 (2) (e) Contracts for the issuance to a public officer or employe of tax titles, tax ~~sale~~ certificates, or instruments representing an interest in, or secured by, any fund consisting in whole or in part of taxes in the process of collection, provided such titles, certificates, or instruments are issued in payment of salary or other obligations due such officer or employe; or

NOTE: Amends s. 946.13 (2) (e), relating to the prohibition of private interests in public contracts, to reflect the procedure under revised ch. 74 by which tax certificates are issued to the county.

SECTION 180. 985.05 (1) of the statutes is amended to read:

985.05 (1) The governing body of every municipality not required to have an official newspaper may

designate a newspaper published or having general circulation in the municipality and eligible under s. 985.03 as its official newspaper or utilize the same for specific notices. The governing body of such municipality may, in lieu of newspaper publication, direct other form of publication or posting under s. 985.02 (2). Other publication or posting, however, shall not be substituted for newspaper publication in proceedings relating to: ~~tax sales; tax sales certificates or tax redemptions or sales of land acquired by the county or city authorized to act under s. 74.87 for delinquent taxes, charges or assessments;~~ civil annexations, detachments, consolidations or incorporations under chs. 59 to 66; or legal notices directed to specific individuals. Posting may not be substituted for publication in school board elections conducted under s. 120.06 or publication under s. 60.80 (2) of town ordinances imposing forfeitures. If an eligible newspaper is published in the municipality, other publication or posting shall not be substituted for newspaper publication under s. 61.32 or 61.50.

**SECTION 180m. Transitional handling of certain delinquencies.** (1) **APPLICABILITY.** This section applies to real property for which, as of January 1, 1992, real property taxes, special assessments, special taxes or special charges levied in 1988 and in 1989 remain delinquent.

(2) **REDEMPTION OF ONE YEAR'S DELINQUENCY.** If, for real property described in subsection (1), all delinquent amounts originally levied in 1989, plus interest and penalty, are fully paid and redeemed on or before August 15, 1992, then amounts originally levied in 1988 which remain delinquent are subject to subsection (3).

(3) **ADDITIONAL TIME TO REDEEM 1988 LEVY.** For real property described in subsection (2), the county may not commence proceedings to take a tax deed under chapter 75 of the statutes, as affected by this act, to collect amounts originally levied in 1988 and remaining delinquent, until January 1, 1996, if not less than 10% of the amount which was delinquent on

January 1, 1992, is paid to the county treasurer on or before the last day of 1992, 1993, 1994 and 1995.

**SECTION 180n. Nonstatutory provisions; other.** (1) Notwithstanding section 74.29 of the statutes, in 1990 and 1991 settlement under that section shall be on or before September 15 rather than on or before August 15.

**SECTION 181. Initial applicability.** (1) This act first applies to general property taxes levied in 1989, commencing with the assessment of general property as of January 1, 1989, and including all subsequent actions related to the levy and collection of those taxes, and to special assessments, special charges and special taxes included in the tax roll with general property taxes levied in 1989.

(2) All general property taxes levied in years prior to 1989, and all special assessments, special charges and special taxes included in the tax rolls for those years, shall be collected and delinquencies enforced under the 1987-88 statutes, until January 1, 1995. Thereafter, the provisions of this act apply.

**NOTE:** Provides a phase-in for the new procedure for property tax collection created by this act.

Subsection (1) makes the new law effective to taxes levied in 1989, starting with the January 1, 1989, assessment of property and including all subsequent steps.

Subsection (2) clearly directs that prior law — i.e., the 1987-88 statutes — will apply to the collection of taxes levied in prior years, plus all accompanying charges and assessments included in tax rolls for those years, and to the enforcement of any delinquencies, until January 1, 1995. Thereafter, the provisions of this act would apply to future steps to collect any remaining delinquencies. Under this arrangement, the taxes levied in 1988 will be the last collected under the old law. Any delinquencies will be sold in October 1989, and tax title to unredeemed lands can first be taken in October 1992. Counties holding tax certificates would then have 2 years and 2 months to convert tax sale certificates into tax title under the old law. Thereafter, the revised law would apply to the collection of any remaining delinquencies.

**SECTION 182. Effective date.** This act takes effect on January 1, 1989.

**Conversion table**

The following list shows the location of the substance of ch. 74 as recodified in this act. The left-hand column ("Old Section") lists the provisions of chapter 74 as they existed prior to recodification. The right-hand column ("New Section") shows the disposition and location of those provisions in the recodified property tax collection law. This table does not show, except for repeals, what specifically happened to the substance of a particular section. To find that information, see the new section and the NOTE thereto.

Old Section	New Section
74.01	repealed
74.02	repealed
74.025	74.69

74.03 (1), as affected by 1987 Wis. Act 27	personal property tax payment date	74.11 (4)
	real estate tax payment date in instalments	74.11 (2)(b)
74.03 (2)(a) and (b)		74.11 (2)
74.03 (2)(c)		74.11 (5)
74.03 (3)		74.11 (3)
74.03 (4)	when first instalment delinquent interest and penalty on delinquent first instalment	74.11 (7)  74.11 (11)(a)
74.03 (5)		74.23 and 74.25
74.03 (6)	when 2nd instalment delinquent interest and penalty on delinquent payments	74.11 (8)  74.11 (11)(a)
74.03 (7)		74.47 (3)
74.03 (8)		74.29
74.03 (9)		74.29
74.03 (10)(intro.)		74.81
74.03 (10)(a)		74.87 (8)
74.03 (10)(b) and (c)		repealed
74.03 (10)(d)		74.87 (2) to (6)
74.03 (10)(e)		74.87 (7)
74.03 (11)		repealed
74.031 (1)		74.12, 74.85 (1)
74.031 (2)	personal property tax payment date	74.12 (6), 74.85 (6)
	real estate tax payment date	74.12 (4), 74.85 (4)
74.031 (3)		74.12 (2), 74.85 (2)
74.031 (4)		74.12 (5), 74.85 (2)
74.031 (5)		74.12 (7), 74.85 (7)
74.031 (6)		74.12 (8), 74.85 (8)
74.031 (6a)	minimum payment apportionment of payment	74.12 (3), 74.85 (3) 74.49 (2)
74.031 (7)		74.13 (2)
74.031 (8)		74.30, 74.305
74.031 (9)		74.12 (12), 74.85 (12)
74.031 (10)		74.29
74.031 (11)		74.29
74.031 (12)		74.47 (3)
74.031 (13)		74.30 (intro.), 74.305 (intro.)
74.035		74.13
74.04		repealed
74.045		repealed
74.05		repealed
74.06		repealed
74.07		repealed
74.08		74.19
74.09		74.19
74.10		repealed
74.11		repealed
74.12		repealed
74.13		repealed
74.135		74.33
74.14		repealed
74.16		74.71
74.17		74.43 (1) and (2)

74.18		74.43 (1)(b)
74.19 (1) and (2)		repealed
74.19 (3)(a)		74.43 (3)
74.19 (3)(b)		repealed
74.19 (4)		repealed
74.20		74.45 (1)
74.21		74.45 (2)
74.22		74.31
74.23		repealed
74.24		repealed
74.25		repealed
74.26 (1)		74.23, 74.25 and 74.29
74.26 (2)		repealed
74.26 (3)		74.31
74.27		74.31
74.28		repealed
74.29		74.55
74.30		74.55
74.31		74.42
74.32		74.51
74.325		74.49
74.33 (1)		74.57
74.33 (2)		74.59 (1)
74.345		74.59 (2)
74.36		74.59 (3)
74.38		repealed
74.39		repealed
74.40		repealed
74.41		repealed
74.42		repealed
74.43		repealed
74.44 (1)	first sentence	74.57 (1)
	remainder of sub. (1)	repealed
74.44 (2)		repealed
74.44 (3)		repealed
74.45		repealed
74.455		repealed
74.456 (1)		74.61 (1)
74.456 (2)		74.61 (2)
74.456 (3)		74.61 (2)
74.456 (4)		74.61 (3)
74.456 (5)		74.61 (4)
74.456 (6)		repealed
74.456 (7)		repealed
74.46 (1)(a)	period of redemption	74.57 (2)(b)
	remainder	repealed
74.46 (1)(b)		repealed
74.46 (1)(c)	master certificate	74.57 (1)
	remainder	repealed
74.46 (1a)		repealed
74.46 (2)		repealed
74.47		74.63
74.49		repealed
74.50		repealed
74.57 (1)		74.65 (1)
74.57 (2)		74.65 (2)
74.57 (3)		74.65 (2)
74.57 (4)		repealed
74.57 (5)		74.65 (3)

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74.58		74.53
74.59		repealed
74.60		74.75
74.62		74.15 (1)
74.63		74.73
74.64		repealed
74.65		repealed
74.66		repealed
74.67		74.77
74.68		repealed
74.69		repealed
74.695		779.78
74.70		74.79
74.71		repealed
74.72		repealed
74.73 (lg)		74.35 (1)
74.73 (lm)		74.35 (5)(a) and (b)
74.73 (lr)	first sentence	74.35 (2)(a)
	2nd sentence	74.35 (3)(c)
	3rd sentence	74.35 (3)(d) and (4)
	4th sentence	74.35 (5)(a)
74.73 (2)		repealed
74.73 (2m)		repealed
74.73 (3)		repealed
74.73 (4)	first clause	74.35 (1)
	remainder	74.37
74.74		74.39
74.77		repealed
74.78		repealed
74.79 (1)		74.87 (3), (5) and (6)
74.79 (2)		74.87 (4)
74.79 (3)		74.87 (7)
74.80 (1)		74.47 (1)
74.80 (2)		74.47 (2)

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