

1989 Senate Bill 413

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1989 WISCONSIN ACT 347

AN ACT *to amend* 32.22 (2) and (4) (title), (a) 1, (b) and (c), 32.22 (5) (a) and (b) 4, 32.22 (6) (a) (intro.) and (8) (a), 66.05 (1) (a), 66.05 (2) (a), 66.05 (3), 66.05 (5), 66.05 (7), 66.05 (8) (b) 1 and (bg) (intro.) and 1, 66.05 (8) (bm) 4 and 5, 66.05 (9) (c), 74.53 (1) (b), 75.19, 75.521 (3) (a) 1, 823.22 (4) and 893.76; *to repeal and recreate* 32.22 (1) (a), 66.05 (2) (a) and 66.05 (5); and *to create* 66.05 (1) (d), 66.05 (10), 101.12 (3) (bm) and (br) and 632.10 to 632.104 of the statutes, **relating to**: various changes in procedures used by cities, villages and certain other local governmental units for immediate condemnation or razing of certain buildings, granting variances to the building code applicable in certain cities, and payment and use of certain property insurance settlements on property located in a 1st class city.

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

SECTION 1. 32.22 (1) (a) of the statutes is repealed and recreated to read:

32.22 (1) (a) "Blighted property" means any property which, by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety or welfare.

SECTION 2. 32.22 (2) and (4) (title), (a) 1., (b) and (c) of the statutes are amended to read:

32.22 (2) **APPLICABILITY.** Any municipality may use the procedures in this section for the condemnation of ~~abandoned~~ blighted residential property, in lieu of the procedures in s. 32.06. Any 1st class city may use the procedures in this section for the condemnation of ~~abandoned~~ blighted residential property, in lieu of the procedures in subch. II. The procedures in this section may only be used to acquire all of the property in a single par-

cel. Except as provided in sub. (12), the procedures in this section may not be used by a municipality to acquire ~~abandoned~~ blighted residential property for any purpose which requires the razing of the residential building.

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

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

(c) Prior to entry into any building proposed to be acquired under this section, the condemnor shall obtain

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

SECTION 3. 32.22 (5) (a) and (b) 4. of the statutes are amended to read:

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

(b) 4. Describe the facts which indicate that property is ~~abandoned~~ blighted.

SECTION 4. 32.22 (6) (a) (intro.) and (8) (a) of the statutes are amended to read:

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

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

SECTION 8. 66.05 (1) (a) of the statutes is amended to read:

66.05 (1) (a) The governing body or the inspector of buildings or other designated officer in every municipality, except in towns situated in a county of less than 15,000 population upon complaint of a majority of the members of the town board the circuit court, may order the owner of premises upon which is located any building or part thereof within such municipality, which in its

judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such building or part thereof ~~and restore the site to a dust-free and erosion-free condition~~, or if it can be made safe by repairs to repair and make safe and sanitary or to raze ~~and~~ remove ~~and restore the site to a dust-free and erosion-free condition~~ at the owner's option; or where there has been a cessation of normal construction of any building or structure for a period of more than 2 years, to raze and remove such building or part thereof ~~and restore the site to a dust-free and erosion-free condition~~. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or his the owner's agent where an agent is in charge of the building ~~and upon the holder of any encumbrance of record~~ in the manner provided for service of a summons in the circuit court. If the owner ~~or a holder of an encumbrance of record~~ and the owner's agent cannot be found, or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it as a class ~~3~~ 1 notice, under ch. 985, before the time limited in the order commences to run. The time limited in the order commences to run from the date of service upon the owner or the agent in the manner of a summons or, if the owner and agent cannot be found, from the date that the order was posted on the building. The order shall also be served on the holder of any encumbrance of record by 1st class mail at the last-known address and by publication as a class 1 notice under ch. 985.

SECTION 9. 66.05 (1) (d) of the statutes is created to read:

66.05 (1) (d) If a raze order issued under par. (a) is recorded with the register of deeds in the county in which the building is located, the order is considered to have been served on any person claiming an interest in the building or the real estate as a result of a conveyance after the date on which the action was commenced.

SECTION 10. 66.05 (2) (a) of the statutes is amended to read:

66.05 (2) (a) If the owner fails or refuses to comply within the time prescribed, the inspector of buildings or other designated officer ~~shall may~~ cause such building or part thereof to be razed and removed ~~and may restore the site to a dust-free and erosion-free condition~~ either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use. The cost of such razing ~~and~~ removal ~~and restoration of the site to a dust-free and erosion-free condition~~ or closing shall be charged in full or in part against the real estate upon which such building is located and shall be a lien upon such real estate, and ~~shall may~~ be assessed and collected

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as a special tax. When any building has been ordered razed and removed and an order has been issued to restore the site to a dust-free and erosion-free condition, the governing body or other designated officer under said contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing ~~and~~ removal and restoration of the site to a dust-free and erosion-free condition, shall be promptly remitted to the circuit court with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state. If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: "This Building Cannot Be Used for Human Habitation, Occupancy or Use". And it is the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made.

SECTION 11. 66.05 (2) (a) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

66.05 (2) (a) If the owner fails or refuses to comply within the time prescribed, the inspector of buildings or other designated officer may cause such building or part thereof to be razed and removed and may restore the site to a dust-free and erosion-free condition either through any available public agency or by contract or arrangement with private persons, or closed if unfit for human habitation, occupancy or use. The cost of such razing, removal and restoration of the site to a dust-free and erosion-free condition or closing shall be charged in full or in part against the real estate upon which such building is located and shall be a lien upon such real estate, and may be assessed and collected as a special tax. Any portion of the cost charged against the real estate that is not reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement shall be assessed and collected as a special tax. When any building has been ordered razed and removed and an order has been issued to restore the site to a dust-free and erosion-free condition, the governing body or other designated officer under said contract or arrangement aforesaid may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing, removal and restoration of the site to a dust-free and erosion-free condition, shall be promptly remitted to the circuit court with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to the order of the court.

If there remains no surplus to be turned over to the court, the report shall so state. If the building or part thereof is insanitary and unfit for human habitation, occupancy or use, and is not in danger of structural collapse the building inspector shall post a placard on the premises containing the following words: "This Building Cannot Be Used for Human Habitation, Occupancy or Use". And it is the duty of the building inspector or other designated officer to prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made.

SECTION 12. 66.05 (3) of the statutes is amended to read:

66.05 (3) Anyone affected by any such order shall within the time provided by s. 893.76 apply to the circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing the building or part thereof and restoring the site to a dust-free and erosion-free condition or forever be barred. The hearing shall be held within 20 days and shall be given preference. The court shall determine whether the order of the inspector of buildings is reasonable, and if found reasonable the court shall dissolve the restraining order, and if found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs shall be in the discretion of the court. If the court finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or other designated officer shall issue no other order under this section in regard to the same building or part thereof until its condition is substantially changed. The remedies provided in this subsection are exclusive remedies and anyone affected by such an order of the inspector shall not be entitled to recover any damages for the razing and removal of any such building and the restoration of the site to a dust-free and erosion-free condition.

SECTION 13. 66.05 (5) of the statutes is amended to read:

66.05 (5) If any building ordered razed and removed and the site ordered restored to a dust-free and erosion-free condition or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing or repair of such building and restoration of such site or if the razing and removal of the building and the restoration of the site to a dust-free and erosion-free condition makes necessary the removal, sale or destruction of such personal property or fixtures the inspector of buildings or other designated officer may order in writing the removal of such personal property or fixtures by a certain date. Such order shall be served as provided in sub. (1). If the personal property or fixtures or both are not removed by the time specified the inspector may store the same, or may sell it, or if it has no appreciable value he may destroy the same. In case the property is stored the amount paid for storage shall be a lien against such property and against the real estate and

shall be assessed and collected as a special tax against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored the owner thereof, if known, shall be notified of the place of its storage and if it be not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. In case of sale the handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be handled as specified in sub. (2) and a report made to the circuit court as therein specified. Anyone affected by any order made under this subsection may appeal as provided in sub. (3).

SECTION 14. 66.05 (5) of the statutes, as affected by 1989 Wisconsin Act (this act), is repealed and recreated to read:

66.05 (5) If any building ordered razed and removed and the site ordered restored to a dust-free and erosion-free condition or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing or repair of such building and restoration of such site or if the razing and removal of the building and the restoration of the site to a dust-free and erosion-free condition makes necessary the removal, sale or destruction of such personal property or fixtures the inspector of buildings or other designated officer may order in writing the removal of such personal property or fixtures by a certain date. Such order shall be served as provided in sub. (1). If the personal property or fixtures or both are not removed by the time specified the inspector may store the same, or may sell it, or if it has no appreciable value he or she may destroy the same. In case the property is stored the amount paid for storage shall be a lien against such property and against the real estate and, to the extent that the amount is not reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement, shall be assessed and collected as a special tax against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored the owner thereof, if known, shall be notified of the place of its storage and if it be not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. In case of sale the handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be handled as specified in sub. (2) and a report made to the circuit court as therein specified. Anyone affected by any order made under this subsection may appeal as provided in sub. (3).

SECTION 15. 66.05 (7) of the statutes is amended to read:

66.05 (7) The action provided in sub. (1) for razing or removing a building and restoring the site to a dust-free and erosion-free condition on premises in a town situated in a county of less than 15,000 population shall be commenced in accordance with s. 801.02. The authenticated copy of the summons and the complaint shall be

served upon the owner and occupant of and any holder of an encumbrance of record against the premises. Procedure shall be the same in all respects as the procedure in other civil actions so far as applicable. Subsection (3) shall not apply to such actions except the court may, upon a showing of hardship or other good cause, restrain for reasonable periods of time the razing or removal of a building or part thereof and the restoration of the site to a dust-free and erosion-free condition and the removal, sale or destruction of any personal property or fixtures therein. Costs shall be in the discretion of the court except as to persons found by the court to be acting maliciously in or about the commencement or prosecution of such action.

SECTION 16. 66.05 (8) (b) 1. and (bg) (intro.) and 1 of the statutes are amended to read:

66.05 (8) (b) 1. If an owner fails to remedy or improve the defect in accordance with the written notice furnished by the building inspector or other designated officer under par. (am) within the 30-day period specified in the written notice, the building inspector or other designated officer shall apply to the circuit court of the county in which the building is located for an order determining that the building constitutes a public nuisance. As a part of the application for such order from the circuit court the building inspector or other designated officer shall file a verified petition which recites the giving of such written notice, the defect or defects in such building, the owner's failure to comply with the notice and such other pertinent facts as may be related thereto. A copy of the petition shall be served upon the owner of record or the owner's agent if an agent is in charge of the building and upon the holder of any encumbrance of record under sub. (1) (a) and the owner shall have 20 days following service upon the owner in which to reply to such petition. Upon application by the building inspector or other designated officer the circuit court shall set promptly the petition for hearing. Testimony shall be taken by the circuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence with respect to the petition and the answer determines that the building constitutes a public nuisance, the court shall issue promptly an order directing the owner of the building to remedy the defect and to make such repairs and alterations as may be required. The court shall set a reasonable period of time in which the defect shall be remedied and the repairs or alterations completed. A copy of the order shall be served upon the owner as provided in sub. (1) (a). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, the court will appoint a receiver or authorize the building inspector or other designated officer to proceed to raze and remove the building and restore the site to a dust-free and erosion-free condition under par. (bg).

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(bg) (intro.) If the order of the circuit court under par. (b) is not complied with within the time fixed by the court under par. (b), the court shall authorize the building inspector or other designated officer to raze and remove the building and restore the site to a dust-free and erosion-free condition or shall appoint a disinterested person to act as receiver of the property to do either of the following within a reasonable period of time set by the court:

1. Remedy the defect and make any repairs and alterations necessary to meet the standards required by the building code or any health order. A receiver appointed under this subdivision, with the approval of the circuit court, may borrow money against and ~~encumber~~ mortgage the property held in receivership as security in any amount necessary to remedy the defect and make the repairs and alterations. For the expenses incurred to remedy the defect and make the repairs and alterations necessary under this subdivision, the receiver shall have a lien upon the property. At the request of and with the approval of the owner, the receiver may sell the property at a price equal to at least the appraisal value of the property plus the cost of any repairs made under this subdivision. The selling owner shall be liable for such costs.

SECTION 17. 66.05 (8) (bm) 4 and 5 of the statutes are amended to read:

66.05 (8) (bm) 4. If a defect is not remedied and repairs and alterations are not made within the time limit set by the circuit court under par. (bg), the court shall order that the building inspector or other designated officer proceed to raze and remove the building and restore the site to a dust-free and erosion-free condition.

5. All costs and disbursements with respect to razing, removing and restoration of the site under this subsection shall be as provided for under sub. (2) (a).

SECTION 18. 66.05 (9) (c) of the statutes is amended to read:

66.05 (9) (c) If an order is issued under this section to raze and remove a historic building and restore the site to a dust-free and erosion-free condition, an application is made for a permit to raze and remove a historic building and restore the site to a dust-free and erosion-free condition or a municipality intends to raze and remove a municipally owned historic building and restore the site to a dust-free and erosion-free condition, the municipality in which the historic building is located shall notify the state historical society of the order, application or intent. No historic building may be razed and removed nor the site restored to a dust-free and erosion-free condition for 30 days after the notice is given. During the 30-day period, the state historical society shall have access to the historic building to create or preserve a historic record.

SECTION 19. 66.05 (10) of the statutes is created to read:

66.05 (10) (a) First class cities may adopt by ordinance alternate or additional provisions governing the razing and removal of a building and the restoration of the site to a dust-free and erosion-free condition.

(b) This subsection shall be liberally construed to provide 1st class cities with the largest possible power and leeway of action.

SECTION 20. 74.53 (1) (b) of the statutes is amended to read:

74.53 (1) (b) The cost of razing and removing property and restoring the site to a dust-free and erosion-free condition incurred under s. 66.05 (2), (5) ~~or~~, (8) (bg) or (10) or of filling an excavation incurred under s. 66.05 (6) if the person owned the property when the property was razed and removed and the site restored or the excavation was filled.

SECTION 21. 75.19 of the statutes is amended to read:

75.19 Foreclosure of certificate. A county holding a tax certificate, instead of taking a tax deed, may foreclose the certificate by action as in a case of a mortgage on real estate at any time after 2 years from the date of the certificate, except that when ~~razing~~ for razing, removing and restoration of the site to a dust-free and erosion-free condition are included in the amount due for taxes, the period of redemption shall be one year from the date of the certificate. The county may, in any case involving the right of redemption or interest of any minor or person adjudged mentally incompetent, after a tax deed has been issued under this chapter, foreclose the right of redemption or interest of the minor or person adjudged mentally incompetent. In such an action the minor or person adjudged mentally incompetent must appear by guardian ad litem, and the general guardian, if the person has one, shall be joined as a party defendant. All the laws and rules of practice relating to the foreclosure of mortgages, as to the persons necessary and proper to be made parties, pleading, evidence, the judgment of foreclosure and sale, the right of the county to be subrogated to the benefits of all liens upon the premises necessarily satisfied by the county in order to save the lien of the certificate, the right of the defendants or any of them to redeem the premises at any time before sale and costs and disbursements, including the necessary expenses for an abstract of title, shall, so far as they are applicable, prevail in such actions. When costs are allowed to the county, the costs, exclusive of disbursements, shall be discretionary with the court but shall not exceed the amount of the certificates at issue in the action, and the costs when allowed shall be an additional lien upon the property described in the certificates. The defendant may, in all cases within the time limited by law for answering the complaint, execute and deliver to the county a quitclaim deed of the lands described in the complaint, conveying all the right, title and interest of the defendant at the time of the commencement of the suit or

may, within such time, either after having delivered the deed or without delivery, answer disclaiming any title to the lands in question at the time of the commencement of the suit, in either of which cases the county shall not recover costs against any defendant who quitclaims or who shall establish the disclaimer at the trial. The sale in such actions shall be conducted, certificates made and filed, the report made and confirmed and a deed executed and delivered in the same manner and with the same effect as in actions for foreclosure of mortgages.

SECTION 22. 75.521 (3) (a) 1. of the statutes is amended to read:

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

SECTION 26m. 101.12 (3) (bm) and (br) of the statutes are created to read:

101.12 (3) (bm) Accept the review and determination performed by 1st class cities on variances for buildings if the variances are reviewed and decided on in a manner approved by the department.

(br) Accept the review and determination on variances for buildings containing less than 50,000 cubic feet of volume and alterations to buildings containing less than 100,000 cubic feet of volume performed by certified municipalities if the department has certified the competency of a municipality to issue variances and if the variances are reviewed in a manner approved by the department. Owners may submit variances to the municipality or the department.

SECTION 27m. 632.10 to 632.104 of the statutes are created to read:

632.10 Definitions applicable to property insurance escrow. In ss. 632.10 to 632.104:

(1) “Building and safety standards” means the requirements of chs. 101 and 145 and of any rule promulgated by the department of industry, labor and human relations under ch. 101 or 145, and standards of a 1st class city relating to the health and safety of occupants of buildings.

(2) “Deliver” means delivery in person, or delivery by deposit with the U.S. postal service of certified or 1st class mail addressed to the recipient at the recipient’s last-known address.

(3) “Final settlement” means the amount that an insurer owes under a property insurance policy to the named insured and other interests named in the policy for loss to any insured building or other structure affixed to land that is caused by fire or explosion, excluding any amount payable for loss to contents or other personal property, for loss of use or business interruption and any amount payable under liability coverage under the policy, and that is determined by any of the following means:

(a) Acceptance of a proof of loss by the insurer.

(b) Execution of a release by the named insured.

(c) Acceptance of an arbitration award by the insurer and named insured.

(d) Judgment of a court of competent jurisdiction.

632.101 Policy terms. (1) **AFFECTED POLICIES.** Except as provided in sub. (2), every property insurance policy issued or delivered in this state, including property insurance policies issued under the mandatory risk sharing plan operating under s. 619.01, that insures real property located in a 1st class city against loss caused by fire or explosion shall provide for payment of any final settlement under the policy in the manner described in ss. 632.102 to 632.104.

(2) **EXCLUDED POLICIES.** Sections 632.10 to 632.104 do not apply to property insurance policies issued in any of the following circumstances:

(a) By the local government property insurance fund under ch. 605.

(b) On a one- or 2-family dwelling that is occupied by the named insured as a principal residence, if any of the following is satisfied:

1. The named insured gives proof of occupancy to the insurer by a valid Wisconsin operator’s license.

2. If the named insured does not possess a valid Wisconsin operator’s license, the named insured gives proof of occupancy to the 1st class city by documentation approved by the 1st class city. Upon acceptance of the proof, the 1st class city shall immediately notify the insurer that a policy issued on the property is exempt from ss. 632.10 to 632.104.

632.102 Payment of final settlement. (1) **WITHHOLDING.** An insurer shall withhold from payment a portion of the final settlement as determined under sub. (2), if all of the following apply:

(a) The amount of the final settlement exceeds 50% of the total of all limits under all insurance policies covering the building and any other structure affixed to land that sustained the loss.

(b) The total amount of all insurance covering the building and any other structure affixed to land that sustained the loss is at least \$5,000.

(2) **AMOUNT WITHHELD.** The insurer shall withhold from payment of the final settlement an amount that is equal to the greater of the following:

(a) Twenty-five percent of the final settlement.

(b) The lesser of \$5,000 or the limits under the policy for coverage of the building or other structure affixed to land that sustained the loss.

(3) **NOTICE OF WITHHOLDING.** (a) Within 10 days after withholding the amount determined under sub. (2), the insurer shall deliver written notice of the withholding to all of the following persons:

1. The building inspection official of the 1st class city in which the insured real property is located.

2. The named insured.

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3. Any mortgagee or other lienholder who has an existing lien against the insured real property and who is named in the policy.

4. If the final settlement was determined by judgment, the court in which the judgment was entered, in addition to the persons described in subds. 1 to 3.

(b) The notice of withholding shall include all of the following information:

1. The identity and address of the insurer.
2. The name and address of the named insured and each mortgagee or other lienholder entitled to notice under par. (a) 3.
3. The address of the insured real property.
4. The date of loss, policy number and claim number.
5. The amount of money withheld.
6. A summary of ss. 632.10 to 632.104, including a statement explaining all of the following:

a. That for the 1st class city to qualify for reimbursement of expenses from the funds withheld under this section, the 1st class city must, after the loss occurs but within 90 days after delivery of the notice of withholding under this subsection, commence proceedings under s. 66.05, 823.04 or 823.22 or under a local ordinance relating to demolition or abatement of nuisances or obtain a release signed by the named insured consenting to demolition with respect to the building or other structure; that if the 1st class city commences the proceedings or obtains the release within that time period, a part or all of the withheld funds may be used to defray the 1st class city's expenses; and that the withheld funds will be released to the named insured and other interests named in the policy if the 1st class city does not commence the proceedings or obtain the release within that time period.

b. That the withheld funds may be released to the named insured and other interests named in the policy if an official of the 1st class city determines under s. 632.103 (3) that the building or other structure has been repaired or replaced or the site restored to a dust-free and erosion-free condition.

(4) **INSURER'S LIABILITY.** In no event may an insurer be liable under a policy subject to ss. 632.10 to 632.104 for any amount greater than the lesser of the final settlement or the limits of liability set out in the policy.

(5) **IMMUNITY FOR INSURER.** No cause of action may arise against and no liability may be imposed upon an insurer or an agent or employe of an insurer for paying, withholding or transferring all or any portion of a final settlement as provided in ss. 632.10 to 632.104.

632.103 Procedure for payment of withheld funds. (1) **RELEASE TO 1ST CLASS CITY.** (a) To qualify for reimbursement of expenses under sub. (2), the 1st class city must do any of the following:

1. Commence proceedings under s. 66.05, 823.04 or 823.22 or under a local ordinance relating to demolition or abatement of nuisances, with respect to the building or other structure for which the funds are withheld.

2. Obtain a release signed by the named insured consenting to demolition of the building or other structure with respect to which the funds are withheld.

(b) The 1st class city shall commence proceedings under par. (a) 1. or obtain the release under par. (a) 2. after the occurrence of the loss to the building or other structure by fire or explosion but within 90 days after delivery of the notice of withholding under s. 632.102 (3).

(c) When proceedings described in par. (a) 1. are commenced, the 1st class city shall notify, in writing, the insurer, the named insured and any mortgagee or other lienholder identified in the notice of withholding under s. 632.102 (3) (b) 2. that the proceedings are commenced.

(d) The 1st class city shall release all interest in the amount withheld under s. 632.102 (2) and the insurer shall promptly pay that amount to the named insured and other interests named in the policy if any of the following occurs:

1. The 1st class city fails to commence proceedings described in par. (a) 1. or obtain a release described in par. (a) 2. within the period provided in par. (b).

2. The 1st class city fails to notify the insurer as provided in par. (c).

(2) **REIMBURSEMENT OF EXPENSES.** (a) If the 1st class city satisfies sub. (1) (a) and (b) and, if applicable, notifies the insurer as required in sub. (1) (c), the insurer shall promptly upon receiving the statement under par. (b) deliver to the 1st class city funds withheld from the named insured's final settlement under s. 632.102 (2), to the extent necessary to reimburse the 1st class city for any of the following expenses:

1. Costs incurred in the course of enforcing s. 66.05 or a local ordinance relating to demolition, with respect to the building or other structure for which the funds are withheld.

2. Costs incurred in acting in accordance with a release signed by the named insured consenting to demolition of the building or other structure with respect to which the funds are withheld.

3. Costs incurred in abating a public nuisance under s. 823.04 or 823.22 or under a local ordinance relating to abating a public nuisance, with respect to the building or other structure for which the funds are withheld.

4. Reasonable administrative expenses incurred in connection with activities described in subds. 1 to 3, including but not limited to expenses for inspection, clerical, supervisory and attorney services.

(b) The insurer may not release any withheld funds to the 1st class city under par. (a) unless the 1st class city delivers to the insurer and the named insured an itemized statement of the actual costs incurred under subds. 1 to 4.

(c) The insurer shall promptly deliver to the named insured and other interests named in the policy any portion of the withheld funds that are not released to the 1st class city under par. (a).

(3) **RELEASE TO NAMED INSURED.** Except as provided in sub. (2), the insurer shall promptly deliver to the named insured and other interests named in the policy the funds withheld from the named insured's final settlement under s. 632.102 (2) if the 1st class city delivers a notice to the insurer that the building inspection official of the 1st class city, or other person who is authorized by the 1st class city's governing body to represent the 1st class city, has inspected the insured real property and verifies any of the following:

(a) That the damaged or destroyed portions of the building or other structure with respect to which the funds are withheld have been repaired or replaced in compliance with applicable building and safety standards, except to the extent that the withheld funds are needed to complete repair or replacement.

(b) That the damaged or destroyed building or other structure with respect to which the funds are withheld and all remnants of the building or other structure have been removed from the land on which the building or other structure was situated and the site has been restored to a dust-free and erosion-free condition in compliance with applicable building and safety standards.

632.104 Funds released to mortgagee. (1) **FIRST MORTGAGE IN DEFAULT.** The insurer shall release to a mortgagee funds withheld under s. 632.102, in an amount and within the period provided in sub. (2), if all of the following conditions are satisfied:

(a) The mortgagee holds a first mortgage on the real property with respect to which the funds are being withheld, and the mortgage is in default.

(b) The mortgage was executed before the effective date of this paragraph ...[revisor inserts date].

(c) The mortgagee delivers to the insurer a written request for release of the funds within 15 days after delivery of the notice of withholding under s. 632.102 (3).

(2) **AMOUNT RELEASED; TIMING.** If sub. (1) is satisfied, the insurer shall release to the mortgagee all or any portion of the funds withheld with respect to the mortgaged property as is necessary to satisfy an outstanding first lien

mortgage of the mortgagee. The insurer shall release the funds within 10 days after receiving the request under sub. (1) (c).

SECTION 28. 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), to the extent that the expenses are not reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement, by maintaining an action against the property owner under s. 74.53.

SECTION 29. 893.76 of the statutes is amended to read:

893.76 (title) Order to repair or remove building or restore site; contesting. An application under s. 66.05 (3) to a circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing a building or part of a building and restoring a site to a dust-free and erosion-free condition or part of a building shall be made within 30 days after service of the order issued under s. 66.05 (1) or be barred.

SECTION 31. Initial applicability. (1) **PROPERTY INSURANCE ESCROW.** The treatment of sections 632.10 to 632.104 of the statutes first applies to property insurance policies issued or renewed on the effective date of this subsection.

SECTION 32. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 632.10 to 632.104 and 823.22 (4) of the statutes, the repeal and recreation of section 66.05 (2) (a) and (5) of the statutes and SECTION 31 (1) of this act take effect on the first day of the 10th month beginning after publication.