

**ASSEMBLY AMENDMENT 2,
TO 1999 ASSEMBLY BILL 726**

March 28, 2000 – Offered by Representatives PLALE and TOWNSEND.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 9: after “assessments,” insert “the procedure for challenging the
3 foreclosure of tax liens,”.

4 **2.** Page 10, line 13: after that line insert:

5 “**SECTION 18m.** 75.521 (7) (a) 1. of the statutes is amended to read:

6 75.521 (7) (a) 1. That the lands in which such person is interested, described
7 in such list of tax liens, were not liable to taxation, special assessment, special charge
8 or special tax at the time the tax, special assessment, special charge or special tax
9 for the nonpayment of which the tax lien arises, was levied and, for an allegation that
10 lands were exempt from taxation, except an allegation that the lands were exempt
11 under s. 70.11 (21) (a) or (27), that the person complied with s. 74.35 with respect to
12 the lands.”.

13 **SECTION 18n.** 75.521 (10) of the statutes is amended to read:

1 75.521 (10) CONTESTED ISSUES AND TRIAL THEREOF. If a duly verified answer is
2 served upon the county treasurer within the period mentioned in sub. (7), the court
3 shall hear and determine the issues raised by the petition and answer in the same
4 manner and under the same rules as it hears and determines civil actions, except as
5 in this section otherwise provided. Upon such trial, proof that such tax, special
6 assessment, special charge or special tax, together with any interest or penalty
7 which may have been due was paid; or that the property was not subject to tax,
8 special assessment, special charge or special tax, and, for property that is alleged to
9 be exempt from taxation, except property that is alleged to be exempt under s. 70.11
10 (21) (a) or (27), that the answering defendant complied with s. 74.35 with respect to
11 the property; or that such tax lien is barred by the statute of limitations, shall
12 constitute a complete defense. Whenever an answer is interposed as herein
13 provided, there shall be a severance of the proceeding as to any parcel or parcels of
14 land in which such answering defendant has any right, title or interest as alleged in
15 his or her answer, and as to the other parcels in such list, the proceeding shall proceed
16 as provided in sub. (8).

17 **SECTION 18p.** 75.521 (12) (a) of the statutes is amended to read:

18 75.521 (12) (a) The county need not plead or prove the various steps,
19 proceedings and notices for the assessment and levy of the taxes, assessments or
20 other lawful charges against the lands set forth in the list of tax liens and all such
21 taxes, assessments or other lawful charges and the lien thereof shall be presumed
22 to be valid. A defendant alleging any jurisdictional defect or invalidity in the tax,
23 special assessment, special charge or special tax, because of which said land was not
24 liable to taxation, special assessment or other lawful charge, must particularly
25 specify in the defendant's answer such jurisdictional defect or invalidity and must

1 affirmatively establish such defense and, for a defendant alleging that lands are
2 exempt from taxation, except lands that are alleged to be exempt under s. 70.11 (21)
3 (a) or (27), must particularly specify such allegation and affirmatively establish
4 compliance with s. 74.35 with respect to the lands.

5 **SECTION 18r.** 75.521 (14a) of the statutes is amended to read:

6 75.521 **(14a)** DAMAGES. Any person who was the owner of any right, title or
7 interest in land which was lost by judgment of foreclosure as provided in this section
8 may within 2 years from the date of entry of such judgment, in the cases hereinafter
9 mentioned other than fraud and within 6 years in the case of fraud, commence an
10 action in the circuit court against the county to recover the fair market value of the
11 person's interest therein at the date of entry of said judgment of foreclosure in rem.
12 If the court determines that such person's right, title and interest in said land was
13 unjustly foreclosed and lost because said person's interest in such lands was not
14 subject to taxation, special assessment, special charge or special tax at the time of
15 the levy of the tax, assessment or charge, for nonpayment of which said lands were
16 foreclosed and, for lands that were exempt from taxation, except lands that were
17 exempt under s. 70.11 (21) (a) or (27), the person complied with s. 74.35 with respect
18 to the lands, or that in fact such tax, special assessment, special charge or special tax
19 was paid by said owner, or that the tax lien upon which the judgment of foreclosure
20 in rem was based was barred by the statute of limitations, or if such person lost said
21 property through fraud without fault on his or her part, the court shall determine the
22 fair market value of said land or of said person's interest therein as hereinabove set
23 forth. The fair market value shall not exceed the amount arrived at by dividing the
24 assessed valuation of such lands in the year in which such judgment in rem was
25 entered by the percentage ratio of real estate assessments prevailing for the taxing

1 district in which the lands were located as set forth in the equalization for state tax
2 purposes of the same year. The court shall award judgment to such plaintiff in such
3 amount, together with reasonable attorney fees to be fixed by the court, and the
4 plaintiff's costs and disbursements of such action. The amount awarded the plaintiff
5 shall be reduced by the total amount due, as of the date of entry of such judgment,
6 for all current taxes and upon all tax certificates held by the county on such date that
7 the court shall find were valid. Upon payment of the judgment the county may
8 charge back as a tax to any taxing district the amount which such district received
9 from the county in payment of taxes and interest on said land either by distribution
10 of proceeds of sale thereof by the county or through other payment by the county to
11 the extent that it exceeds the amount distributable to such district had the same been
12 based upon the payment of the taxes and interest found by the court to be properly
13 payable at the time of the entry of the judgment of foreclosure and applied in
14 reduction of the amount awarded to the plaintiff hereunder.”.

15 **3.** Page 11, line 23: after that line insert:

16 “(4v) FORECLOSURE OF TAX LIENS. The treatment of section 75.521 (7) (a) 1., (10),
17 (12) (a) and (14a) of the statutes first applies to petitions that are filed on the effective
18 date of this subsection.”.

19 (END)