

**1999 DRAFTING REQUEST**

**Bill**

Received: 02/21/2000

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Brian Burke (608) 266-8535

By/Representing: barry

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact: Marc Patronsky

Alt. Drafters:

Subject: Tax - property

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Tax foreclosure transfer

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 02/22/2000	csicilia 02/23/2000	martykr 02/23/2000	_____	lrb_docadmin 02/23/2000		Local
	jkreye 02/29/2000	csicilia 02/29/2000		_____			
/1	jkreye 03/01/2000	csicilia 03/01/2000	jfrantze 03/01/2000	_____	lrb_docadmin 03/01/2000		Local
/2	jkreye 03/06/2000	csicilia 03/06/2000	hhagen 03/02/2000	_____	lrb_docadmin 03/02/2000		Local
/3			martykr 03/06/2000	_____	lrb_docadmin 03/06/2000	lrb_docadmin	Local 03/06/2000

**LRB-4586**

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

3/7/00

<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: 02/21/2000  
 Received By: jkreye  
 Wanted: Soon  
 For: Brian Burke (608) 266-8535  
 This file may be shown to any legislator: NO  
 May Contact: Marc Patronsky  
 Subject: Tax - property  
 Extra Copies:

Drafter: jkreye

Alt. Drafters:

By/Representing: bary

Identical to LRB:

Pre Topic:  
 No specific pre topic given

Topic:

Tax foreclosure transfer

Instructions:

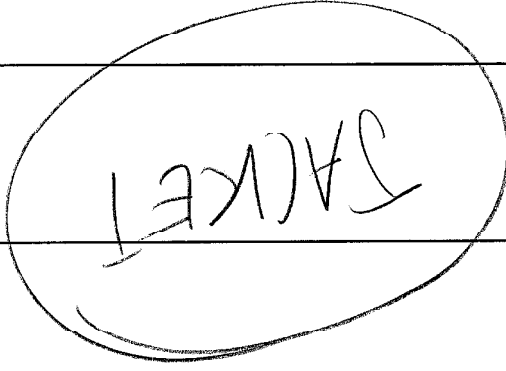
See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
-------	---------	----------	-------	---------	-----------	----------	----------

P/1	jkreye 02/22/2000 csicilia	jkreye 02/23/2000 csicilia	martykr 02/23/2000	_____	lrb_docadmin 02/23/2000	Local	
/1	jkreye 03/01/2000 csicilia	jkreye 02/29/2000 csicilia	jrtranzc 03/01/2000	_____	lrb_docadmin 03/01/2000	Local	
/2		1/3 g's 3/6 00	hagen 03/02/2000	_____	lrb_docadmin 03/02/2000	Local	

FB Sent For:



**1999 DRAFTING REQUEST**

**Bill**

Received: 02/21/2000 Received By: jkreyc

Wanted: Soon Identical to LRB:

For: Brian Burke (608) 266-8535 By/Representing: barry

This file may be shown to any legislator: NO Drafter: jkreyc

May Contact: Marc Patronsky Alt. Drafters:

Subject: Tax - property Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Tax foreclosure transfer

**Instructions:**

See Attached

**Drafting History:**

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	jkreyc 02/22/2000	csicilia 02/23/2000	martykr 02/23/2000	_____	lrb_docadmin 02/23/2000	_____	Local
/1	jkreyc 02/29/2000	csicilia 02/29/2000	_____	_____	lrb_docadmin 03/01/2000	_____	Local

*1/2 yrs 3/11/00*

*Handwritten notes and signatures*

<END>

FB Sent For:

**1999 DRAFTING REQUEST**

**Bill**

Received: 02/21/2000 Received By: jkreyc

Wanted: Soon

For: Brian Burke (608) 266-8535

By/Representing: bary

This file may be shown to any legislator: NO

Drafter: jkreyc

May Contact: Marc Patronsky

Alt. Drafter:

Subject: Tax - property

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Tax foreclosure transfer

**Instructions:**

See Attached

**Drafting History:**

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required	Local
/P1	jkreye 02/22/2000	csicilia 02/23/2000	martykr 02/23/2000	_____	lrb_docadmin 02/23/2000			

FB Sent For:

1 gys 2/29 00  
Jbs/1  
3/1/00  
K.H.  
<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: 02/21/2000 Received By: jkreyc

Wanted: Soon

Identical to LRB:

For: Brian Burke (608) 266-8535 By/Representing: bary

Drafter: jkreyc

This file may be shown to any legislator: NO

Alt. Drafters:

May Contact: Marc Patronsky

Subject: Tax - property  
Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Tax foreclosure transfer

**Instructions:**

See Attached

*57BMT P1*

**Drafting History:**

Required	Jacketed	Submitted	Proofed	Typed	Reviewed	Drafted	Vers.
							jkreye
							1/

*04 3  
2/20/00  
00  
P1 q's  
2/20/00  
2/20/00*

FE Sent For:

<END>

**BILL REQUEST FORM**

**LEGISLATIVE REFERENCE BUREAU**

Legal Section, 5th Floor, 100 N. Hamilton St.  
(608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill. Use this form only for BILL drafts. Attach more pages if necessary.

Date of request: 2-18-00	
Legislator or agency requesting this draft: SEN. Brian Burke	
Name/phone number of person submitting request: Barry Gabelner 6-8535	
Persons to contact for questions about this draft (names and phone numbers please): GREG MAGOPIAN 414-286-2601 BOUCE LERES 414-277-5815 MARK PATTONSKY 6-9280	
Describe the problem, including any helpful examples. How do you want to solve the problem?  SEE ATTACHED MEMO & "SUGGESTED" DRAFTING LANGUAGE.  (NOTE: MARK PATTONSKY HAS TALKED TO THE MAIN PROponents OF THIS PROPOSAL & HAS A LITTLE INSIGHT INTO THE MAIN OF PROBLEMT.)	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.  
May we tell others that we are working on this for you?  YES  NO  
If yes, anyone who asks?  YES  NO  
Any legislator?  YES  NO  ONLY the following persons:

Do you consider this urgent?  YES  NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?  YES  NO If yes, please sign your name here:

**MEMORANDUM**

TO:

FROM:

Laurie Kuiper  
*LK*  
City of Milwaukee

CC:

Gregg Hagopian (City of Milwaukee)  
Darsi Foss (WDNR)  
John Robinson (Brownfield Study Group)  
Bruce Keyes (Foley & Lardner)  
Senator Brian Burke

DATE:

February 17, 2000

RE:

Proposed Tax Foreclosure Transfer Legislation

Attached is a proposal which would allow a county (which includes the City of Milwaukee under Section 75.106 Wis. Stats.) to assign its right to In Rem judgment to a third party (the "assignee") through a foreclosure action under 75.521.

This legislation would enable an assignee to acquire a brownfield property directly through the foreclosure proceeding as long as the assignee enters into an agreement to conduct a site assessment and address any environmental conditions discovered on the property. The assignee would receive a substantial benefit since this provides a streamlined mechanism for transferring title and resolves several potential clouds on the title, including outstanding liens, mortgages and tax delinquency. It also enables a county to facilitate the transfer of a tax delinquent property without having to be concerned with the county's obligations under Sec. 292.11(e) because the county does not enter into the chain of title. The public would receive a substantial benefit since it would induce private investment in brownfield properties, and even if the assignee elects to not take title, any environmental conditions discovered on the property would be disclosed. This disclosure will allow the Department of Natural Resources to take steps to protect public health and the environment and may be used to determine if additional public investment is needed to see that the property is remediated and redeveloped.

The legislation intends to assure that the city, town or village in which the property is located receives notice before the county approves the assignment. In addition, the agreement entered into with the Department of Natural Resources would provide the assignee with notice of its legal obligations to address environmental conditions on the property. However, the assignee is not required to proceed with the transaction following the environmental assessment. A number of procedural requirements are included in the proposed legislation to assure, for the benefit of the court and the parties, that there is a clear procedure for using the statute.



**NEW §75.106**

**75.106 Assignability of in rem judgment on brownfield properties.**

**(1) DEFINITIONS.**

(a) "Department," "hazardous substance" and "hazardous substance" have the same meanings as those words are defined in s. 75.105(1).

*(not used)*

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

(c) "Environmental pollution" has the meaning given in s. 292.01(4).

**(2) ASSIGNMENT OF RIGHT TO IN REM JUDGMENT AUTHORIZED.**

At any time prior to the issuance of final judgment under s. 75.521, a county may ~~assign~~ <sup>before</sup> its right to take judgment under s. 75.521, to any person, <sup>with respect to any parcel that subject to</sup> ~~respecting any parcel subject to~~ the county's foreclosure action under s. 75.521, if all of the following apply:

(a) The governing body of the county approves the assignment; providing, however,

*with respect to any parcel that subject to the county's foreclosure action under s. 75.521, if all of the following apply:*

that at least 15 days prior to the initial meeting or hearing at which county approval of the assignment is to be considered, the county gives written notice of the meeting or hearing to the city, town, or village in which is located the parcel for which judgment is desired to be assigned;

(b) The assignment is signed on behalf of the county and the assignee, and identifies the parcel for which judgment is desired to be assigned;

(c) The parcel for which judgment is desired to be assigned is a brownfield;

(d) The assignment requires that an environmental assessment of the parcel be conducted and that the results of that assessment be provided to the department prior to any final judgment under s. 75.521 being granted to the assignee;

If a county does assign its right to in rem foreclosure judgment in accordance with sub(2), and if the county would otherwise be entitled to final judgment under s. 75.521, and if the county's assignee elects or is obligated to acquire title to the parcel under the terms of the assignment, then judgment on the parcel that is the subject of the assignment shall instead be granted to the county's assignee, and a separate judgment shall be granted to the county for all other parcels not subject to the assignment. The judgment in favor of the county's assignee shall order and adjudge that the assignee is vested with an estate in fee simple absolute in the lands that are the subject of the assignment, and the judgment in favor of the county shall order and

(3) IN REM JUDGMENT.

county's foreclosure action.

body approval of the assignment are filed with the court presiding over the

The assignment and an affidavit by the county treasurer evidencing governing

rules; and

2. to maintain and monitor the parcel as required by the department under its

substance in accordance with rules that the department promulgates, and

practicable and minimizing the harmful effects from the hazardous

1. to clean up the parcel by restoring the environment to the extent

department:

75.521 being granted to the assignee, enter into an agreement with the

taking in rem judgment, the assignee will, prior to any final judgment under s.

substance, and if, despite that, the assignee nonetheless elects to acquire title by

parcel is contaminated by environmental pollution resulting from a hazardous

The assignment requires that, if the environmental assessment concludes that the

adjudge that the county is vested with an estate in fee simple absolute in all other lands that are

not subject of the assignment. In each case, however, the judgment shall be recorded in

accordance with s. 75.521(14), and the judgment shall be subject to all unpaid taxes and charges

which are subsequent to the latest dated valid tax lien appearing on the list specified in s.

75.521(3)(b) and to recorded restrictions as provided by s. 75.14(4).

**(4) ASSIGNEE IS OWNER.**

For purposes of any provision of Ch. 292, Stats., or for any other purpose, the assignee of

the county who obtains final judgment, and not the county, shall take title to, and be deemed the

owner of, any parcel that is the subject of the final judgment granted to that assignee.

**(5) CERTAIN CITIES AUTHORIZED.**

Per s. 75.06, "county" as used in this section includes any city authorized to proceed

under s. 74.87.

27472

*already covered by 5.75.06*



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-45867

JR:...

gs  
RMR  
R1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N  
insert  
soon  
open  
2-22-2000  
m

1 AN ACT ... relating to: assigning a judgment in a tax certificate foreclosure

2 action.

*Analysis by the Legislative Reference Bureau*

Under current law, a taxation district transfers its tax roll to the county in which the taxation district is located. The county accepts all delinquent property taxes from the taxation district and credits the taxation district for delinquent taxes in the next tax levy. The county attempts to collect the delinquent property taxes by issuing a tax certificate on the property for which taxes are delinquent. After the county issues a tax certificate, the owner of the property has two years to redeem the certificate by paying the delinquent taxes. If the taxes remain unpaid after two years, the county may commence an action in court to foreclose the certificate.

Under current law, if a county prevails in an action to foreclose the certificate, the court enters a judgment which grants the county ownership of the property for which taxes are delinquent. Under this bill, a county may assign to a person its right to a judgment with respect to any parcel that is subject to the county's foreclosure action, if the parcel is a brownfield; an environmental assessment is conducted on the parcel and the department of natural resources (DNR) is given the results of that assessment; and, if the parcel is contaminated by a hazardous substance, the person to whom the judgment is assigned agrees to clean up, maintain and monitor the parcel according to rules established by DNR.

Under the bill, if a county assigns a judgment to a person and the county is entitled to a judgment in the county's foreclosure action, the court that is presiding over the foreclosure action will enter a judgment which grants the ownership of the

parcel that is the subject of the assignment to the person to whom the judgment is assigned and will enter a separate judgment which grants the ownership of the other parcels that are the subject of the foreclosure action to the county.  
For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 75.106 of the statutes is created to read:

**75.106 Assignment of property contaminated by hazardous**

**substances. (1) DEFINITIONS.** In this section:

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

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

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

(2) ASSIGNMENT AUTHORIZED. Before a judgment is issued under s. 75.521 (13),

the governing body of a county may assign to a person the county's right to take

judgment with respect to any parcel that is subject to the county's foreclosure action

under s. 75.521, if all of the following apply:

(a) The governing body of the county provides written notice to the governing

body of the city, town or village in which the parcel that is subject to the county's

foreclosure action is located at least 15 days before the governing body of the county

meets to consider the approval of the assignment.

(b) The governing body of the county produces a written assignment that is

signed on behalf of the county and the assignee.

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

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

1 The assignment requires an environmental assessment of the parcel and  
 2 requires that the department be provided the results of that assessment before a  
 3 final judgment under s. 75.521 (13) related to the parcel is granted to the assignee.  
 4 (f) The assignment requires that, if the parcel is contaminated by a hazardous  
 5 substance, as determined by the assessment under par. (e), and if the assignee elects  
 6 to accept the assignment regardless of the contamination, the assignee enter into an  
 7 agreement with the department, before a final judgment is issued under s. 75.521  
 8 (13) related to the parcel, to clean up the parcel to the extent practicable; to minimize  
 9 any harmful effects from the hazardous substance pursuant to rules the department  
 10 promulgates; and to maintain and monitor the parcel pursuant to rules the  
 11 department promulgates.  
 12 (g) The assignment and an affidavit from the county treasurer that attests to  
 13 the county governing body's approval of the assignment are filed with the court that  
 14 is presiding over the county's foreclosure action under s. 75.521.  
 15 (3) JUDGMENT If a county assigns a judgment under sub. (2) and the county is  
 16 entitled to a final judgment in the county's foreclosure action under s. 75.521, the  
 17 court that is presiding over the foreclosure action shall grant a judgment to the  
 18 assignee under sub. (2) on the parcel that is the subject of the assignment and shall  
 19 grant a separate judgment to the county for parcels that are not the subjects of  
 20 assignments. The court shall enter a judgment ordering and adjudging that the  
 21 assignee is vested with an estate in fee simple absolute in the parcel that is the  
 22 subject of the assignment and the court shall enter a judgment ordering and  
 23 adjudging that the county is vested with an estate in fee simple absolute in all parcels  
 24 that are not the subjects of assignments. A judgment under this subsection is subject  
 25 to all unpaid taxes and charges that are subsequent to the latest dated tax lien

1 appearing on the list specified in s. 75.521 (3) (b) and to recorded restrictions as  
2 provided by s. 75.14.

3 SECTION 2. 75.521 (13) (b) of the statutes is amended to read:

4 ~~75.521 (13) (b) In Except as provided in 75.106 (3), in the event that the court~~

5 shall determine that the issue raised by the answer of the defendant is without merit,

6 a final judgment to such effect shall be entered ordering and adjudging that the

7 county is vested with an estate in fee simple absolute in such lands subject, however,

8 to all unpaid taxes and charges which are subsequent to the latest dated tax lien

9 appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided

10 by s. 75.14, and all persons, both natural and artificial, including the state of

11 Wisconsin, infants, incompetents, absentees and nonresidents who may have had

12 any right, title, interest, claim, lien or equity of redemption in such lands, are forever

13 barred and foreclosed of such right, title, interest, claim, lien or equity of redemption.

14 Such judgment shall be deemed to be based on the latest dated tax lien appearing

15 on the list of tax liens. Such judgment shall have the effect of the issuance of a tax

16 deed or deeds and of judgment to bar former owners and quiet title thereon.

17 (END)

INSERT A

C

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: Joseph.Kreye@legis.state.wi.us

If you have any questions, please contact me.

Please review this draft carefully to ensure that it is consistent with your intent. I did not include any language that seemed redundant or convoluted.

1. I did not include the recommended language that specifies that the assignee takes title to and is considered the owner of the parcel. The bill already specifies that the assignee is vested with an estate in fee simple absolute in the parcel that is the subject of the assignment. I think that is sufficient to resolve any question as to who owns the parcel.

2. I did not specify that, for purposes of the bill, a ~~class~~<sup>1st</sup> class city is considered a county. That is already provided for under s. 75.06 of the statutes.

Senator Burke:

February 22, 2000

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4586/dm  
JK  
gs



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

¶ SEC# AM. 75.115

(INSERT A)

75.106(13)

**DRAFTERS NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

February 23, 2000

Senator Burke:

Please review this draft carefully to ensure that it is consistent with your intent. I did not include any language that seemed redundant or convoluted.

1. I did not include the recommended language that specifies that the assignee takes title to and is considered the owner of the parcel. The bill already specifies that the assignee is vested with an estate in fee simple absolute in the parcel that is the subject of the assignment. I think that is sufficient to resolve any question as to who owns the parcel.

2. I did not specify that, for purposes of the bill, a 1st class city is considered a county. That is already provided for under s. 75.06 of the statutes.

If you have any questions, please contact me.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: Joseph.Kreye@legis.state.wi.us

#2517

The information contained in this facsimile transmission is intended for the personal and confidential use of the person(s) designated above. This transmission may be an attorney-client communication, and as such is privileged and confidential. If you are not the designated recipient of this transmission or the agent responsible for delivering it to the designated recipient, you are hereby notified that any reading, review, dissemination, distribution, or copying of this transmission is strictly prohibited. If you have received this transmission in error, please inform us immediately by telephone and return the original to us by mail at our expense. Thank you.

CONFIDENTIAL TRANSMISSION

PHONE NUMBER: \_\_\_\_\_

FAX OPERATOR: \_\_\_\_\_

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT:

COMMENTS: \_\_\_\_\_

DATE: \_\_\_\_\_

*2/28/00*

TIME: \_\_\_\_\_

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: \_\_\_\_\_

*8*

THESE PAGES ARE BEING TRANSMITTED FROM:

*Guss Hopkins*

PLEASE DELIVER THE FOLLOWING PAGES TO:

*Joe Krup*

FAX COVER SHEET

CITY OF MILWAUKEE  
OFFICE OF THE CITY ATTORNEY  
200 EAST WELLS STREET, ROOM 800  
MILWAUKEE, WISCONSIN 53202  
Telephone No. (414) 286-2601  
Fax No. (414) 286-8550

CITY ATTORNEY'S OFFICE

200 EAST WELLS STREET

MILWAUKEE 53202

TEL. 278-2901

FAX 226-6550

W4 FAX

608-264-8522 Date 2-28-00

To:

Joe Kreye, LRB Legislative Atty

From:

Gregg Hagopian

For:

Your Action

Signature

Approval

Review

Information

Files

Comment

Forward

Please:

Return

Forward

Retain

Put our conversation This is the

Remarks:

8:22-00 letter I

faxed to Mark Patrosky,

See esp, Pa 2, indented

material. TWA WX

# CITY OF MILWAUKEE



OFFICE OF CITY ATTORNEY

800 CITY HALL  
200 EAST WELLS STREET  
MILWAUKEE, WISCONSIN 53202-3551

TELEPHONE (414) 286-2601  
TDD 286-2025  
FAX (414) 286-8550

February 22, 2000

VIA FACSIMILE (608-266-3830)

Mr. Mark Patronsky  
Wisconsin Legislative Council  
P.O. Box 2536  
Madison, WI 53701-2536

RE: §75.106

Dear Mr. Patronscky:

This is a follow-up to the 2/17/00 phone conversation you had with Gregg Hagopian. We appreciate your comments. We hope that our addressing them here will ease the drafting process.

As discussed, §75.106 only allows the assignment of the right to judgment. §75.106(2) It does not assign to a third-party the right to a bring a §75.521 foreclosure action or to proceed with that action. It only assigns the right to take judgment. Thus, the counties in the state and the City of Milwaukee that use §75.106 will, after §75.106 gets enacted, still be the ones initiating in rem foreclosure actions and pursuing those actions.

Second, §75.106 indicates that the right to judgment may be assigned at any time prior to issuance of final judgment. §75.106(2). Since counties and Milwaukee will be the ones initiating §75.521 in rem foreclosure actions and pursuing those actions, and since the only thing that is being assigned is the right to judgment, that means that, if a party being foreclosed against does redeem or answer or otherwise challenge the foreclosure action, it will be the government (i.e. the county or Milwaukee) that has to deal with that. Redemption under §75.521 is a limited 8-week period that ends prior to the granting of any final judgment. §75.521(6). Likewise, filing an answer to challenge an in rem foreclosure action may only be done on a limited basis and must be done within 30 days after the end of the redemption period (see, Wis. Stat. §75.521(7)).

- BEVERLY A. TEMPLE
- THOMAS O. GARTNER
- LINDA ULISS BURKE
- BRUCE D. SCHIMPF
- ROYANE L. CRAWFORD
- SUSAN D. BICKERT
- HAZEL MOSLEY
- HARRY A. STEIN
- STUART S. MUKAMAL
- THOMAS J. BEAMISH
- MAURITA F. HOUREN
- JOHN J. HEINEN
- MICHAEL G. TOBIN
- DAVID J. STANOSZ
- SUSAN E. LAPPEN
- DAVID R. HALBROOKS
- JAN A. SMOKOWICZ
- PATRICIA A. FRICKER
- HEIDI WICK SPOERL
- KURT A. BEHLING
- GREGG C. HAGOPIAN
- ELLEN H. TANGEN
- MELANIE R. SWANK
- JAY A. UNORA
- DONALD L. SCHRIEFER
- EDWARD M. EHRLICH
- CHRISTOPHER J. CHERELLA
- LEONARD A. TOKUS
- JENNIFER K. HENZL-MCVEY

Assistant City Attorney

- GRANT F. LANGLEY  
City Attorney
- RUDOLPH M. KONRAD  
Deputy City Attorney
- THOMAS E. HAYES
- PATRICK B. McDONNELL
- CHARLES R. THEIS  
Special Deputy City Attorney

That means that, under §75.521 as that statute already exists, any redemption, or answer to challenge the foreclosure action, must occur prior to the granting of final judgment.

Third, notwithstanding the above, §75.521(14a) does provide that, under very limited circumstances, a person can, after final judgment has been granted, bring an action "against the county" to recover the fair market value of that person's interest that was lost due to in rem foreclosure, plus attorney fees, plus costs, but less amounts due for taxes. Section 75.521(14a) clearly indicates that those type actions are against counties and Milwaukee. Section 75.106(4), as it is currently written (i.e. the copy you have), may cause some confusion vis-a-vis §75.521(14a). To eliminate that confusion, we suggest that the following sentence be added to the end of §75.106(4):

Actions under s. 75.521(14a), however, may be maintained only against the county; but the assignment agreement between the county and assignee may provide for the assignee to indemnify the county and hold it harmless against any loss, expense, liability or damage the county may suffer as a result of any such action.

For your convenience, we have enclosed a new §75.106 that has the above sentence added to §75.106(4).

With the new sentence in §75.106(4), now §75.106 and §75.521 harmonize nicely and completely. And, §75.106 will still allow for the §75.106 assignment agreement to allocate §75.521(14a) risk between the foreclosing government and the assignee – without diminishing any right of the person foreclosed against.

Be aware that Mr. Hagopian volunteered to the DNR to help it draft a brochure explaining §75.106 and assignment agreements thereunder. One of the things that we would include in that brochure is §75.521(14a).

The above, we believe, addresses all your concerns.

Please call Mr. Hagopian if you have questions or comments. His direct line is (414) 286-2620. And, thanks again.

Sincerely,

GRANT B. LARLEY  
City Attorney

GREGG C. HAAGOPIAN  
Assistant City Attorney

gch:wr:28229  
Enclosure



cc: Bruce Keyes, Foley & Lardner (w/enclosure) (via facsimile)  
 Laurie Kuiper, DOA-Intergovernmental Relations (w/enclosure)  
 Patrick B. McDonnell, Special Deputy City Attorney (w/enclosure)  
 Thomas E. Hayes, Special Deputy City Attorney (w/enclosure)  
 Stuart S. Mukamal, Assistant City Attorney (w/enclosure)

NEW §75.106

**75.106 Assignability of in rem judgment on brownfield properties.**

**(1) DEFINITIONS.**

- (a) "Department," "discharge," and "hazardous substance" have the same meanings as those words are defined in s. 75.105(1).
- (b) "Brownfield" has the meaning given in s. 560.13(1)(a).
- (c) "Environmental pollution" has the meaning given in s. 292.01(4).

**(2) ASSIGNMENT OF RIGHT TO IN REM JUDGMENT AUTHORIZED.**

At any time prior to the issuance of final judgment under s. 75.521, a county may elect to assign its right to take judgment under s. 75.521, to any person, respecting any parcel subject to the county's foreclosure action under s. 75.521, if all of the following apply:

- (a) The governing body of the county approves the assignment; providing, however, that at least 15 days prior to the initial meeting or hearing at which county approval of the assignment is to be considered, the county gives written notice of the meeting or hearing to the city, town, or village in which is located the parcel for which judgment is desired to be assigned;
- (b) The assignment is signed on behalf of the county and the assignee, and identifies the parcel for which judgment is desired to be assigned;
- (c) The parcel for which judgment is desired to be assigned is a brownfield;
- (d) The assignment requires that an environmental assessment of the parcel be conducted and that the results of that assessment be provided to the department prior to any final judgment under s. 75.521 being granted to the assignee;



(e) The assignment requires that, if the environmental assessment concludes that the parcel is contaminated by environmental pollution resulting from a hazardous substance, and if, despite that, the assignee nonetheless elects to acquire title by taking in rem judgment, the assignee will, prior to any final judgment under s. 75.521 being granted to the assignee, enter into an agreement with the department:

1. to clean up the parcel by restoring the environment to the extent practicable and minimizing the harmful effects from the hazardous substance in accordance with rules that the department promulgates, and

2. to maintain and monitor the parcel as required by the department under its rules; and

(f) The assignment and an affidavit by the county treasurer evidencing governing body approval of the assignment are filed with the court presiding over the county's foreclosure action.

(3) IN REM JUDGMENT.

If a county does assign its right to in rem foreclosure judgment in accordance with sub(2), and if the county would otherwise be entitled to final judgment under s. 75.521, and if the county's assignee elects or is obligated to acquire title to the parcel under the terms of the assignment, then judgment on the parcel that is the subject of the assignment shall instead be granted to the county's assignee, and a separate judgment shall be granted to the county for all other parcels not subject to the assignment. The judgment in favor of the county's assignee shall order and adjudge that the assignee is vested with an estate in fee simple absolute in the lands that are the subject of the assignment, and the judgment in favor of the county shall order and

adjudge that the county is vested with an estate in fee simple absolute in all other lands that are

not subject of the assignment. In each case, however, the judgment shall be recorded in

accordance with s. 75.521(14), and the judgment shall be subject to all unpaid taxes and charges

which are subsequent to the latest dated valid tax lien appearing on the list specified in s.

75.521(3)(b) and to recorded restrictions as provided by s. 75.14(4).

**(4) ASSIGNEE IS OWNER.**

For purposes of any provision of Ch. 292, Stats., or for any other purpose, the assignee of

the county who obtains final judgment, and not the county, shall take title to, and be deemed the

owner of, any parcel that is the subject of the final judgment granted to that assignee. Actions

under s. 75.521(14a), however, may be maintained only against the county; but the assignment

agreement between the county and assignee may provide for the assignee to indemnify the

county and hold it harmless against any loss, expense, liability or damage the county may suffer

as a result of any such action.

**(5) CERTAIN CITIES AUTHORIZED.**

Per s. 75.06, "county" as used in this section includes any city authorized to proceed

under s. 74.87.

27472



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-4586/1  
JK:cjs:km

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2-29-2000

no you

1 AN ACT to amend 75.115 and 75.521 (13) (b); and to create 75.106 of the statutes;  
2 relating to: assigning a judgment in a tax certificate foreclosure action.

**Analysis by the Legislative Reference Bureau**

~~Under current law, a taxation district transfers its tax roll to the county in which the taxation district is located. The county accepts all delinquent property taxes from the taxation district and credits the taxation district for delinquent taxes in the next tax levy. The county attempts to collect the delinquent property taxes by issuing a tax certificate on the property for which taxes are delinquent. After the county issues a tax certificate, the owner of the property has two years to redeem the certificate by paying the delinquent taxes. If the taxes remain unpaid after two years, the county may commence an action in court to foreclose the certificate.~~

~~Under current law, if a county prevails in an action to foreclose the certificate, the court enters a judgment which grants the county ownership of the property ~~and~~ the court enters a judgment which grants the county ownership of the property ~~and~~ to a judgment with respect to any parcel that is subject to the county's foreclosure action, if the parcel is a brownfield; an environmental assessment is conducted on the parcel and the department of natural resources (DNR) is given the results of that assessment; and, if the parcel is contaminated by a hazardous substance, the person to whom the judgment is assigned agrees to clean up, maintain and monitor the parcel according to rules established by DNR.~~  
Under the bill, if a county assigns a judgment to a person and the county is entitled to a judgment in the county's foreclosure action, the court that is presiding over the foreclosure action will enter a judgment which grants the ownership of the

Under current law, if a county prevails in an action to foreclose the certificate, the court enters a judgment which grants the county ownership of the property ~~and~~ the court enters a judgment which grants the county ownership of the property ~~and~~ to a judgment with respect to any parcel that is subject to the county's foreclosure action, if the parcel is a brownfield; an environmental assessment is conducted on the parcel and the department of natural resources (DNR) is given the results of that assessment; and, if the parcel is contaminated by a hazardous substance, the person to whom the judgment is assigned agrees to clean up, maintain and monitor the parcel according to rules established by DNR.

action

parcel that is the subject of the assignment to the person to whom the judgment is assigned and will enter a separate judgment which grants the ownership of the other parcels that are the subject of the foreclosure action to the county.  
For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1. 75.106 of the statutes is created to read:**

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

- (a) "Brownfield" has the meaning given in s. 560.13 (1) (a).
- (b) "Department" means the department of natural resources.
- (c) "Discharge" has the meaning given in s. 292.01(3).
- (d) "Hazardous substance" has the meaning given in s. 292.01 (5).

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

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

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

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

18  
17  
16  
15  
14  
13  
12  
11  
10  
9  
8  
7  
6  
5  
4  
3  
2  
1

*The discharge of*

1 (e) The assignment requires an environmental assessment of the parcel and  
 2 requires that the department be provided the results of that assessment before a  
 3 final judgment under s. 75.521 ~~that~~ related to the parcel is granted to the assignee.  
 4 (f) The assignment requires that, if the parcel is contaminated by a hazardous  
 5 substance, as determined by the assessment under par. (e), and if the assignee elects  
 6 to accept the assignment regardless of the contamination, the assignee enter into an  
 7 agreement with the department, before a final judgment is issued under s. 75.521  
 8 ~~that~~ related to the parcel, to clean up the parcel to the extent practicable; to minimize  
 9 any harmful effects from the hazardous substance pursuant to rules the department  
 10 promulgates; and to maintain and monitor the parcel pursuant to rules the  
 11 department promulgates.  
 12 (g) The assignment and an affidavit from the county treasurer that attests to  
 13 the county governing body's approval of the assignment are filed with the court that  
 14 is presiding over the county's foreclosure action under s. 75.521.  
 15 (3) JUDGMENT If a county assigns a judgment under sub. (2) and the county is  
 16 entitled to a final judgment in the county's foreclosure action under s. 75.521, the  
 17 court that is presiding over the foreclosure action shall grant a judgment to the  
 18 assignee under sub. (2) on the parcel that is the subject of the assignment and shall  
 19 grant a separate judgment to the county for parcels that are not the subjects of  
 20 ~~the~~ assignments. The court shall enter a judgment ordering and adjudging that the  
 21 assignee is vested with an estate in fee simple absolute in the parcel that is the  
 22 subject of the assignment and the court shall enter a judgment ordering and  
 23 adjudging that the county is vested with an estate in fee simple absolute in all parcels  
 24 that are not the subjects of assignments. A judgment under this subsection is subject  
 25 to all unpaid taxes and charges that are subsequent to the latest dated tax lien

1 appearing on the list specified in s. 75.521 (3) (b) and to recorded restrictions as

2 provided by s. 75.14.

3 **SECTION 2.** 75.115 of the statutes is amended to read:

4 **75.115 Rights of persons who have an interest in mineral rights.**

5 Notwithstanding ss. 75.106 (3), 75.14 (1), 75.16, 75.19 and 75.521 (3) (am) 4., (5), (8)

6 and (13) (b), the failure of an owner of a fee simple interest in surface rights to pay

7 property taxes on land does not extinguish the rights of a holder of a fee simple

8 interest in severed mineral rights related to that land.

9 **SECTION 3.** 75.521 (13) (b) of the statutes is amended to read:

10 ~~75.521 (13) (b) Except as provided in 75.106 (3), in the event that the court~~

11 ~~shall determine that the issue raised by the answer of the defendant is without merit,~~

12 ~~a final judgment to such effect shall be entered ordering and adjudging that the~~

13 ~~county is vested with an estate in fee simple absolute in such lands subject, however,~~

14 ~~to all unpaid taxes and charges which are subsequent to the latest dated tax lien~~

15 ~~appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided~~

16 ~~by s. 75.14, and all persons, both natural and artificial, including the state of~~

17 ~~Wisconsin, infants, incompetents, absentees and nonresidents who may have had~~

18 ~~any right, title, interest, claim, lien or equity of redemption in such lands, are forever~~

19 ~~barred and foreclosed of such right, title, interest, claim, lien or equity of redemption.~~

20 ~~Such judgment shall be deemed to be based on the latest dated tax lien appearing~~

21 ~~on the list of tax liens. Such judgment shall have the effect of the issuance of a tax~~

22 ~~deed or deeds and of judgment to bar former owners and quiet title thereon.~~

23 (END)

INSERT 4-2

IN SER 5 4-2

ⓑ ⓓ (4) OWNERSHIP

An assignee who is granted a judgment under sub. (3) shall take title to, and in the name of,

the parcel that is the subject of the assignment,

except that a person who commences an action

under s. 75.521(14a) related to the parcel shall

commence the action against only the country that

assigned judgment to the parcel under sub. (2).

An assignment ~~subject~~ under sub. (2) may

provide that an assignee under sub. (2) shall

indemnify the country that makes the

assignment and hold the country harmless against

any loss, expense, liability or damage that the country

incurs may incur as a result of an action under s. 75.521(14a).



State of Wisconsin  
1999 - 2000 LEGISLATURE

JK:gjs:jf

LRB-4586/1

# 1999 BILL

5001

3-1-2000

2

1

AN ACT to create 75.106 of the statutes; relating to: assigning a judgment in a tax ~~deficiency~~ foreclosure action.

## Analysis by the Legislative Reference Bureau

Don

Under current law, if a county prevails in an action to foreclose a tax ~~deficiency~~ on property for which taxes are delinquent, the court enters a judgment which grants the county ownership of the property. Under this bill, a county may assign to a person its right to a judgment with respect to any parcel that is subject to the county's foreclosure action, if the parcel is a brownfield; an environmental assessment is conducted on the parcel and the department of natural resources (DNR) is given the results of that assessment; and, if the parcel is contaminated by a hazardous substance, the person to whom the judgment is assigned agrees to clean up, maintain and monitor the parcel according to rules established by DNR.

Under the bill, if a county assigns a judgment to a person and the county is entitled to a judgment in the county's foreclosure action, the court that is presiding over the foreclosure action will enter a judgment which grants the ownership of the parcel that is the subject of the assignment to the person to whom the judgment is assigned and will enter a separate judgment which grants the ownership of the other parcels that are the subject of the foreclosure action to the county.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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



SECTION 1. 75.106 of the statutes is created to read:

**75.106 Assignment of property contaminated by hazardous**

**substances. (1) DEFINITIONS.** In this section:

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

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

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

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

(2) ASSIGNMENT AUTHORIZED. Before a judgment is issued under s. 75.521, the

governing body of a county may assign to a person the county's right to take judgment

with respect to any parcel that is subject to the county's foreclosure action under s.

75.521, if all of the following apply:

(a) The governing body of the county provides written notice to the governing

body of the city, town or village in which the parcel that is subject to the county's

foreclosure action is located at least 15 days before the governing body of the county

meets to consider the approval of the assignment.

(b) The governing body of the county produces a written assignment that is

signed on behalf of the county, the assignee and the city, town or village in which the

parcel that is subject to the county's foreclosure action is located.

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

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

(e) The assignment requires an environmental assessment of the parcel and

requires that the department be provided the results of that assessment before a

final judgment under s. 75.521 related to the parcel is granted to the assignee.

(f) The assignment requires that, if the parcel is contaminated by the discharge

of a hazardous substance, as determined by the assessment under par. (e), and if the

25 that a person who commences an action under s. 75.521 (14a) related to the parcel  
 24 title to, and is the owner of, the parcel that is the subject of the assignment, except  
 23 (4) OWNERSHIP. An assignee who is granted a judgment under sub. (3) shall take  
 22 provided by s. 75.14.  
 21 lien appearing on the list specified in s. 75.521 (3) (b) and to recorded restrictions as  
 20 subject to all unpaid taxes and charges that are subsequent to the latest dated tax  
 19 that are not the subjects of an assignment. A judgment under this subsection is  
 18 adjudging that the county is vested with an estate in fee simple absolute in all parcels  
 17 subject of the assignment and the court shall enter a judgment ordering and  
 16 assignee is vested with an estate in fee simple absolute in the parcel that is the  
 15 assignment. The court shall enter a judgment ordering and adjudging that the  
 14 grant a separate judgment to the county for parcels that are not the subjects of an  
 13 assignee under sub. (2) on the parcel that is the subject of the assignment and shall  
 12 court that is presiding over the foreclosure action shall grant a judgment to the  
 11 entitled to a final judgment in the county's foreclosure action under s. 75.521, the  
 10 (3) JUDGMENT. If a county assigns a judgment under sub. (2) and the county is  
 9 is presiding over the county's foreclosure action under s. 75.521.  
 8 the county governing body's approval of the assignment are filed with the court that  
 7 (g) The assignment and an affidavit from the county treasurer that attests to  
 6 pursuant to rules the department promulgates.  
 5 to rules the department promulgates; and to maintain and monitor the parcel  
 4 practicable; to minimize any harmful effects from the hazardous substance pursuant  
 3 issued under s. 75.521 related to the parcel, to clean up the parcel to the extent  
 2 assignee enter into an agreement with the department, before a final judgment is  
 1 assignee elects to accept the assignment regardless of the contamination, the

*Judgment assigned under this subsection*

**BILL**

**BILL**

1 shall commence the action against only the county that assigned judgment to the  
 2 parcel under sub. (2). An assignment under sub. (2) may provide that an assignee  
 3 under sub. (2) shall indemnify the county that makes the assignment and hold the  
 4 county harmless against any loss, expense, liability or damage that the county may  
 5 incur as a result of an action under s. 75.521 (14a).  
 6 (END)



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-4586/2  
JK:cjs:hmh

1999 BILL

WFO: the change is on page 3  
Tue. 3-7 AM  
3-6-2000

1 AN ACT to create 75.106 of the statutes, relating to: assigning a judgment in a  
2 tax foreclosure action.

**Analysis by the Legislative Reference Bureau**

Under current law, if a county prevails in an action to foreclose a tax lien on property for which taxes are delinquent, the court enters a judgment which grants the county ownership of the property. Under this bill, a county may assign to a person its right to a judgment with respect to any parcel that is subject to the county's foreclosure action, if the parcel is a brownfield; an environmental assessment is conducted on the parcel and the department of natural resources (DNR) is given the results of that assessment; and, if the parcel is contaminated by a hazardous substance, the person to whom the judgment is assigned agrees to clean up, maintain and monitor the parcel according to rules established by DNR.  
Under the bill, if a county assigns a judgment to a person and the county is entitled to a judgment in the county's foreclosure action, the court that is presiding over the foreclosure action will enter a judgment which grants the ownership of the parcel that is the subject of the assignment to the person to whom the judgment is assigned and will enter a separate judgment which grants the ownership of the other parcels that are the subject of the foreclosure action to the county.  
For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

**BILL**

**SECTION 1.** 75.106 of the statutes is created to read:

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

- (a) "Brownfield" has the meaning given in s. 560.13 (1) (a).
  - (b) "Department" means the department of natural resources.
  - (c) "Discharge" has the meaning given in s. 292.01 (3).
  - (d) "Hazardous substance" has the meaning given in s. 292.01 (5).
- (2) ASSIGNMENT AUTHORIZED. Before a judgment is issued under s. 75.521, the governing body of a county may assign to a person the county's right to take judgment with respect to any parcel that is subject to the county's foreclosure action under s. 75.521, if all of the following apply:

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

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

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

(e) The assignment requires an environmental assessment of the parcel and requires that the department be provided the results of that assessment before a

final judgment under s. 75.521 related to the parcel is granted to the assignee.

(f) The assignment requires that, if the parcel is contaminated by the discharge

of a hazardous substance, as determined by the assessment under par (e), and if the

25  
24  
23  
22  
21  
20  
19  
18  
17  
16  
15  
14  
13  
12  
11  
10  
9  
8  
7  
6  
5  
4  
3  
2  
1

that a person who commences an action under s. 75.521 (14a) related to the parcel title to, and is the owner of, the parcel that is the subject of the assignment, except (4) OWNERSHIP. An assignee who is granted a judgment under sub. (3) shall take provided by s. 75.14.

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

the county governing body's approval of the assignment are filed with the court that (g) The assignment and an affidavit from the county treasurer that attests to monitor the parcel pursuant to rules the department promulgates.

substance pursuant to rules the department promulgates; and to maintain and parcel to the extent practicable; to minimize any harmful effects from the hazardous before a final judgment is issued under s. 75.521 related to the parcel, to clean up the the contamination, the assignee enter into an agreement with the department, assignee elects to accept the judgment assigned under this subsection regardless of

**BILL**

1 shall commence the action against only the county that assigned judgment to the  
2 parcel under sub. (2). An assignment under sub. (2) may provide that an assignee  
3 under sub. (2) shall indemnify the county that makes the assignment and hold the  
4 county harmless against any loss, expense, liability or damage that the county may  
5 incur as a result of an action under s. 75.521 (14a).  
6 (END)