

1999 DRAFTING REQUEST

Bill

Received: **11/24/98**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7597**

By/Representing: **Wong**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - property
Munis - miscellaneous
Counties**

Extra Copies: **JK, RCT**

Topic:

DOA:.....Wong - Transfer of tax delinquent brownfields from a county to a city, village or town

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	shoveme 11/25/98	gilfokm 11/25/98	hhagen 11/30/98	_____	lrb_docadmin 11/30/98		S&L
/P2	shoveme 12/23/98	gilfokm 12/23/98	martykr 12/28/98	_____	lrb_docadmin 12/28/98		S&L
/P3	shoveme 12/29/98	gilfokm 12/29/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		S&L
/P4	shoveme 01/20/99	gilfokm 01/20/99	ismith 01/20/99	_____	lrb_docadmin 01/20/99		S&L

FE Sent For:

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/P3	shoveme 12/29/98	gilfokm 12/29/98	hhagen 12/29/98	_____	lrb_docadmin 12/29/98		S&L

FE Sent For: *1/4-1-20-99 kmg* *IS 1/20/99* *IS/LP 1/20/99*
<END>

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*1 P3 MES 12/29/98
FE Sent For: King*

*dh 12/29
ch 12/29
WLS*

<END>

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Munis - miscellaneous
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/P2 MES 12/23/98

km¹²₂₃ HH km¹²₂₈

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Munis - miscellaneous
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Extra Copies: **MES, RCT**

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DOA:.....Wong - Transfer of tax delinquent brownfields from counties to cities

Instructions:

See Attached

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/P1	shoveme	/Pl-11-25	# 11/20	# 15 11/30			
	f/p1 MES 11/24/98		12/2	# 12/28			

FE Sent For:

<END>

Issue: Clarify Access and Inspection Authority for Local Units of Governments

Background

In Wisconsin, local units of governments have limited and sometimes unclear authority to enter and inspect real properties to determine the nature and extent of environmental pollution. Many of these properties cause or add to blight problems within communities and can, in some cases, pose a public health threat. In 1994, the state provided counties and the City of Milwaukee

authority to inspect real property where a tax certificate has been issued. Other states have recognized the need to provide its local units of government more authority to inspect brownfields properties. Just recently, the State of Illinois passed broad legislation to allow municipalities more authority to inspect brownfields properties.

Proposals

- **Clarify Authority to Inspect under Blight Elimination and Slum Clearance.** Please see specific proposals under the issue "Clarify Blight Elimination and Slum Clearance Authority" in this chapter.
- **Special Inspection Warrant Authority:**
 - In the special inspection warrant authority in s. 66.122, Stats., include Community and Redevelopment authorities (CDAs and RDAs) as eligible to use the special inspection warrant authority.
 - Modifications to other sections of the statute will be required to clarify the powers and duties of RDAs and CDAs (e.g., s. 66.431(5), Stats.).

Comments

The Study Group felt that, under the Special Inspection Warrant Authority, there was concern over giving too much authority to CDAs and RDAs. The Group also felt that the municipalities have the authority to get special warrants and should do so on behalf of CDA/RDA.

This Authority is intended to be an exception to the requirement of finding probable cause to issue a search warrant. It is meant to allow units of government to conduct routine inspections for the purpose of protecting public health, welfare or safety or the environment and should be used only when necessary. Federal and state case law upholds the constitutionality of special inspection warrants for limited purposes and so the authority to issue them should remain with the municipality.

Type of Change: Statutory

Resources: None

Issue: Allow Transfer of Tax Delinquent Brownfields Properties to Cities

Background

While significant progress has been made over the last five years, many Wisconsin counties are still reluctant to take title to tax delinquent properties. Many cities in those "reluctant" counties would like to take a proactive approach to dealing with these tax delinquent brownfields properties. However, for a city to enjoy the protections of the Spill Law's exemption from investigating and cleaning up the property, they must acquire

the property in certain limited ways. One of those means of acquisition is through tax delinquency proceedings, which requires the county to first acquire the property. Proactive cities are having difficulty getting some county governments to take title to a tax delinquent property, so it can be passed to the city.

Proposal

Section 1. 75.197 of the statutes is created to read:

75.197 Transfer of contaminated lands to municipality. If a county does not take a tax deed to property that is subject to a tax certificate and that, as shown by an environmental assessment or similar information, is contaminated by a hazardous substance as defined in s. 292.01(5) Stats., within 2 years after the period of redemption of the tax certificate has expired, the county shall take a tax deed to the property and shall transfer ownership of the property for no consideration to the municipality within whose jurisdiction the property is located at the written request of the municipality. The county shall transfer ownership of the property to the municipality within 9 months after receiving the written request from the municipality. [WLCS: 003/1; 9/21/98]

Comments

Type of Change: Statutory

Resources: None



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1005/P1

MES... King

DOA:.....Wong - Transfer of tax delinquent brownfields from ^{a county} ~~counties~~ to a ~~cities~~ city, village or town

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{Don't Gen. Cat.} relating to: ~~the~~ the transfer of tax delinquent brownfields from a county to a city, village or town.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, if a person does not pay the tax that is due on a parcel of real property before September 1, the county treasurer is required to issue a tax certificate to the county that relates to that property. The issuance of a tax certificate begins the redemption period during which the taxpayer may retain his or her property by paying the delinquent taxes. In most cases, the redemption period is two years after the issuance of the tax certificate. If the property is not redeemed during the redemption period, the county may acquire the property by taking a tax deed, commencing an action to foreclose the certificate or by commencing an action to foreclose the tax lien. Once a county acquires title to the property, ^{the county} it may sell the property as directed by the county board.

Also under current law, if a city, village or town (municipality) acquires tax delinquent property that is contaminated by a hazardous substance, ^{through a tax delinquency proceeding} ~~through a tax delinquency proceeding~~, the municipality enjoys the protections of the SPILL Law ^{Insert}

Under this bill if a county does not take a tax deed for property that is subject to a tax certificate and that is contaminated by a hazardous substance, within two

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ⓐ



years after the expiration of the redemption period, the county must, upon receiving a written request from the municipality within whose jurisdiction the property is located, acquire the property by taking a tax deed. The county must then transfer ownership of the property, without consideration, to the municipality within nine months after receiving the written request from the municipality.

For further information see the *state and 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:

1 SECTION 1. 75.17 of the statutes is created to read:

2 75.17 Transfer of contaminated land to a municipality. (1) In this
3 section:

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

5 (b) "Municipality" means a city, village or town.

6 (2) If a county does not take a tax deed for property that is subject to a tax
7 certificate and that is contaminated by a hazardous substance, within ~~two~~ ^{two} years after
8 the expiration of the redemption period that is described under s. 75.14 (1) and
9 specified in s. 74.57 ^{(2) (a) and} (b) (intro.), the county shall take a tax deed for such property
10 upon receiving a written request to do so from the municipality in which the property
11 is located. The county shall then transfer ownership of the property to the
12 municipality, for no consideration, within 90 days after receiving the written request
13 from the municipality.

14 SECTION 9343. Initial applicability; revenue.

15 (1) TRANSFER OF CONTAMINATED LANDS. The treatment of section 75.17 of the
16 statutes first applies to land a tax certificate for which is issued on the effective date
17 of this subsection.

18 (END)

Inset

is generally exempt from ^{clean-up} A requirements that otherwise
apply to owners of property that is contaminated by a
hazardous substance.

1. No person may make in any application, record, report, plan or other documents submitted to the department, any statement, representation or certification known to that person to be false or misleading.
2. Any person who violates this sub (1) shall be fined not less than \$10 and no more than \$10,000.
3. Any monetary compensation paid for violations under sub (1) will be deposited into the Dry Cleaner Environmental Fund.

Waste Management - DNR

1. Landfill Siting Committee Membership (See Attachment C)
 - Amend landfill siting law to state that a host community is entitled to appoint a majority of members on any siting committee regardless of how it is formed. As such, the town, city or village in which the landfill is proposed to be located may appoint 4 members or 2 more members than the total number of members on the committee, whichever is greater.

Recycling

1. Repeal Recycling Market Development Board Grant starting FY 2000.
2. For municipalities who have less than 33% of eligible expenses in determining their recycling grant award, provide a grant that equals to 33% of eligible expenses or \$8 per capita, whichever is less. (Reference: s287.23 (5)(c)(5)).
3. Repeal current law that requires responsible units to implement a system of volume-based fee by January 1, 2000. (Reference: 287.23(5s)(b))
4. Change the sunset date for grant awards from year 2000 to year 2001. (Reference 287.23 (7))

Brownfields Study Group

Incentives for Local Government

1. Allow Transfer of Tax Delinquent Brownfields Properties to Cities (Reference: LRB 1005)
 - Modify our previous request to require a county, after receiving a written request from the affected municipality, to either take a tax deed and ownership to a property that is subject to a tax certificate or transfer ownership of that property to the requested municipality with no consideration.
2. Expand Protections for Local Units of Government that Involuntarily Acquire Contaminated Property
 - Expand municipality liability exemptions to properties acquired with stewardship funds. Municipalities would be required to enter into a negotiated agreement with DNR to ensure all cleanup conditions are met.

Issue: Clarify Access and Inspection Authority for Local Units of Governments

Background

In Wisconsin, local units of government have limited and sometimes unclear authority to enter and inspect real properties to determine the nature and extent of environmental pollution. Many of these properties cause or add to blight problems within communities and can, in some cases, pose a public health threat. In 1994, the state provided counties and the City of Milwaukee authority to

inspect real property where a tax certificate has been issued. Other states have recognized the need to provide its local units of government more authority to inspect brownfields properties. Just recently, the State of Illinois passed broad legislation to allow municipalities more authority to inspect brownfields properties.

Proposals

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Type of Change: Statutory

Resources: None

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While significant progress has been made over the last five years, many Wisconsin counties are still reluctant to take title to tax delinquent properties. Many cities in those "reluctant" counties would like to take a proactive approach to dealing with these tax delinquent brownfields properties. However, for a city to enjoy the protections of the Spill Law's exemption from investigating and cleaning up the property, they must acquire

the property in certain limited ways. One of those means of acquisition is through tax delinquency proceedings, which requires the county to first acquire the property. Proactive cities are having difficulty getting some county governments to take title to a tax delinquent property, so it can be passed to the city.

Proposal

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If a county does not take a tax deed to property that is subject to a tax certificate and that, as shown by an environmental assessment or similar information, is contaminated by a hazardous substance as defined in s.292.01(5), Stats., within 2 years after the ~~period of redemption of the issuance of a tax certificate has expired, and upon written request of the municipality within whose jurisdiction the property is located,~~ the county shall take a tax deed to the property and shall transfer ownership of the property for no consideration as agreed to by the county and the municipality to the municipality within whose jurisdiction the property is located at the written request of the municipality. The county shall transfer ownership of the property to the municipality within 9 months after receiving the written request from the municipality.

Comments

Type of Change: Statutory

Resources: None



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1005/P2
MES:kmg: [initials]

RMR

DOA:.....Wong - Transfer of tax delinquent brownfields from a county to a city, village or town

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

D-note
soon

Don't Gen Cat.
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Also under current law, if a city, village or town (municipality) acquires, through a tax delinquency proceeding, tax delinquent property that is contaminated by a hazardous substance, the municipality is generally exempt from clean-up requirements that otherwise apply to owners of property that is contaminated by a hazardous substance.

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Under this bill if a county does not take a tax deed for property that is subject to a tax certificate and that is contaminated by a hazardous substance, within two years after the expiration of the redemption period, the county must, upon receiving a written request from the municipality within whose jurisdiction the property is located, acquire the property by taking a tax deed. The county ~~must~~ then transfer ownership of the property, without consideration, to the municipality within nine months after receiving the written request from the municipality.

For further information see the *state and 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:

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10 property upon receiving a written request to do so from the municipality in which the
11 property is located. The county ~~must~~ ^{may} then transfer ownership of the property to the
12 municipality, for no consideration, within 90 days after receiving the written request
13 from the municipality.

14 SECTION 9343. Initial applicability; revenue.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1005/P2dn
MES:kmg:hmh

The instructions for this version of the draft seem contradictory and one of the instructions, if implemented, would require a number of statutory changes to the procedures that apply to delinquent lands. You do not indicate in your narrative, however, that such changes are desired. For example, in the narrative instructions that you sent over, you state that a county that transfers ownership of tax delinquent brownfields to a municipality should do so "with no consideration", yet the "pre-drafted" statute indicates that such a transfer shall be "for no consideration as agreed to by the county and the municipality".

Also, the "pre-drafted" text that you sent over indicates that a county shall take a tax deed to a tax delinquent brownfield "within 2 years after the ~~period of redemption of the issuance of a tax certificate has expired~~". As I understand current law, the period of redemption begins after the tax certificate is issued, and this period is the period during which the taxpayer may redeem his or her land. See ss. 75.14 (10) and 74.57 (2) (a) and (b). The changes contained in your pre-drafted materials indicate that you would like a county to be able to take a tax deed immediately upon issuance of a tax certificate instead of waiting for the period of redemption to expire. Your narrative instructions do not indicate that such a change is desired.

In this version of the draft, I implemented the instructions contained in your narrative. Please let me know if you'd like any other changes to be made. In the future, it will be easier for me to understand what you want if you include with your narrative a marked up LRB draft, instead of "pre-drafting" language — especially if you try to indicate changes in pre-drafted, created text by striking and scoring.

Marc E. Shovers
Senior Legislative Attorney
266-0129

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LEGISLATIVE REFERENCE BUREAU

LRB-1005/P2dn
MES:kmg:km

December 23, 1998

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1005/P2

MES:kmg:ltm

3
RMR

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FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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Do not pass

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Also under current law, if a city, village or town (municipality) acquires, through a tax delinquency proceeding, tax delinquent property that is contaminated by a hazardous substance, the municipality is generally exempt from clean-up requirements that otherwise apply to owners of property that is contaminated by a hazardous substance.

If the county does not wish to retain ownership, the county must

Under this bill if a county does not take a tax deed for property that is subject to a tax certificate and that is contaminated by a hazardous substance, within two years after the expiration of the redemption period, the county must, upon receiving a written request from the municipality within whose jurisdiction the property is located, acquire the property by taking a tax deed. The county may then either retain ownership of the property or, transfer ownership of the property, without consideration, to the municipality within ~~nine months~~ *90 days* after receiving the written request from the municipality.

For further information see the *state and 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:

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13 from the municipality.

14 **SECTION 9343. Initial applicability; revenue.**

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1005/P3

MES:kmg:lm

(PMP)

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5 (b) "Municipality" means a city, village or town.

6 (2) If a county does not take a tax deed for property that is subject to a tax
7 certificate and that is contaminated by a hazardous substance, within 2 years after
8 the expiration of the redemption period that is described under s. 75.14 (1) and
9 specified in s. 74.57 (2) (a) and (b) (intro.), the county shall take a tax deed for such
10 property upon receiving a written request to do so from the municipality in which the
11 property is located. The county may then retain ownership of the property or, if the
12 county does not wish to retain ownership of the property, the county shall transfer
13 ownership of the property to the municipality, for no consideration, within ~~90~~ ¹⁸⁰ days
14 after receiving the written request from the municipality.

15 **SECTION 9343. Initial applicability; revenue.**



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1005/P4
MES:kmg:ijs

DOA:.....Wong - Transfer of tax delinquent brownfields from a county to a city, village or town

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: the transfer of tax delinquent brownfields from a county
2 to a city, village or town.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, if a person does not pay the tax that is due on a parcel of real property before September 1, the county treasurer is required to issue a tax certificate to the county that relates to that property. The issuance of a tax certificate begins the redemption period during which the taxpayer may retain his or her property by paying the delinquent taxes. In most cases, the redemption period is two years after the issuance of the tax certificate. If the property is not redeemed during the redemption period, the county may acquire the property by taking a tax deed, by commencing an action to foreclose the certificate or by commencing an action to foreclose the tax lien. Once a county acquires title to the property, the county may sell the property as directed by the county board.

Also under current law, if a city, village or town (municipality) acquires, through a tax delinquency proceeding, tax delinquent property that is contaminated by a hazardous substance, the municipality is generally exempt from clean-up requirements that otherwise apply to owners of property that is contaminated by a hazardous substance.

Under this bill if a county does not take a tax deed for property that is subject to a tax certificate and that is contaminated by a hazardous substance, within two years after the expiration of the redemption period, the county must, upon receiving a written request from the municipality within whose jurisdiction the property is located, acquire the property by taking a tax deed. The county may then either retain ownership of the property or, if the county does not wish to retain ownership, the county must transfer ownership of the property, without consideration, to the municipality within 180 days after receiving the written request from the municipality.

For further information see the *state and 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:

1 **SECTION 1.** 75.17 of the statutes is created to read:

2 **75.17 Transfer of contaminated land to a municipality.** (1) In this
3 section:

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

5 (b) "Municipality" means a city, village or town.

6 **(2)** If a county does not take a tax deed for property that is subject to a tax
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NOTE TO DRAFTING FILE for LRB-1005:

Per the drafter, this draft has been redrafted to a “/1” as no problems remain in the draft that require resolution before introduction of the budget bill. There are no changes between the “/PX” and the “/1.”

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