

2001 DRAFTING REQUEST

Bill

Received: 12/04/2000

Received By: jkreye

Wanted: **Soon**

Identical to LRB:

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

By/Representing: **Wong**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - property
Environment - env. cleanup**

Extra Copies:

Pre Topic:

DOA:.....Wong -

Topic:

Tax deed assignment

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>
/1	jkreye 12/07/2000	jdyer 12/08/2000	martykr 12/12/2000	_____	lrb_docadmin 12/12/2000		S&L
	jkreye 01/16/2001	gilfokm 01/16/2001		_____			
/2			kfollet 01/16/2001	_____	lrb_docadmin 01/17/2001		S&L

FE Sent For:

<END>

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12-1/16-51

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1?	jkreye	11/12/8 jls	km 12	PS 12 km 12			

FE Sent For:

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created s. 75.106

Issue: Assign Judgment Of A Tax Deed Without Taking Title

Background

Recently Wisconsin adopted changes which allow counties or the City of Milwaukee, which use foreclosure provisions under s.75.521, Wis. Stats., to assign their rights of ownership of a brownfield property to a third party if the property is subject to a foreclosure.

Under Wisconsin law, counties can take title to property using s.75.521, or s.75.14, Wis. Stats., using a tax deed, or s.75.19, Wis. Stats. to foreclose on a tax certificate. The recent changes apply only to s.75.521, Wis. Stats.

Under 1999 Wisconsin Act 121, a county or the City of Milwaukee can assign to an individual its right to judgment with respect to a brownfields parcel, as defined under s.560.13(1)(a), Wis. Stats. The right to judgment is subject to a foreclosure action under s.75.521, Wis. Stats., if the assignee agrees to remediate the property.

However, Act 121 did not provide a similar mechanism for counties that take a tax deed under s.75.14, Wis. Stats. As a result, counties that do not utilize the *in rem* process under s.75.521, Wis. Stats., are unable to convey delinquent brownfield property without entering into the chain of title.

To the extent that tax delinquent properties are returned to tax-paying status as a result of the proposal, county costs will be reduced to settling for the delinquent property taxes of contaminated properties. To the extent that the subsequent clean up and development of the parcel increase the parcel's assessed value, the tax base of the taxing jurisdictions where the parcel is located is expanded, relative to what it was had the parcel remained contaminated and delinquent.

Proposal

The Study Group proposes the following:

- allow a county to execute a tax deed under s.75.14(1), Wis. Stats., to an individual under the same conditions as prescribed under s.75.106, Wis. Stats.; this would allow an individual the right to accept a deed which vests an absolute estate in fee simple for a brownfield property where a Phase I and II environmental assessment has been conducted if the individual agrees to further investigate and remediate the property per the requirements under s.75.106(2)(f), Wis. Stats.; and
- allow the individual who has elected to accept a tax deed under the above conditions to commence an action to bar former owners under s. 75.39, Wis. Stats.

Type of Change

Statutory

Resources

None

Comments



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1314

JK:.....

jd

DOA:.....Wong - Tax deed assignment

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

m 12-7-00

SOON

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT ✓

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP ✓

Under current law, if a person does not pay the tax that is due on the person's real property before September 1, the county treasurer must issue a tax certificate to the county that relates to the property. The issuance of a tax certificate begins the redemption period during which the person may retain the person's property by paying the delinquent taxes. In most cases, the redemption period is two years. If the property owner does not pay the delinquent taxes before the redemption period expires, the county may acquire the property by taking a tax deed on the property, by commencing an action to foreclose the tax certificate, or by commencing an action to foreclose a tax lien on the property.

Under current law, a county may also assign to a person its right to a foreclosure judgment related to tax delinquent property, if the county provides written notice of the assignment to the municipality in which the property is located at least 15 days before the governing body of the county meets to consider approving the assignment; the property is a brownfield; an environmental assessment is conducted on the property and DNR is given the results of that assessment; and, if the property is contaminated by a hazardous substance, the person to whom the judgment is assigned agrees to clean up, maintain, and monitor the property according to rules that are established by DNR.

Under this bill, after the redemption period on tax delinquent property expires, the county may transfer the property to a person by executing a tax deed to that person, if the county provides written notice of the transfer to the municipality in which the property is located at least 15 days before the governing body of the county meets to consider approving executing the tax deed; the property is a brownfield; an environmental assessment is conducted on the property and DNR is given the results of that assessment; and, if the property is contaminated by a hazardous substance, the person to whom the tax deed is executed agrees to clean up, maintain, and monitor the property according to rules that are established by DNR.

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. 75.001 (2)^X of the statutes is amended to read:

2 75.001 (2) "Tax deed" means a tax deed executed under s. 75.14 or [✓]75.107, a
3 deed executed under s. 75.19 or a judgment issued under s. 75.521.

4 SECTION 2. 75.107^X of the statutes is created to read:

5 **75.107 Tax deed of property contaminated by a hazardous substance.**

6 (1) DEFINITIONS. In this section:[✓]

7 (a) "Brownfield" has the meaning given in s. 560.13 (1) (a).[✓]

8 (b) "Department" means the department of natural resources.[✓]

9 (c) "Discharge" has the meaning given in s. 292.01 (3).[✓]

10 (d) "Hazardous substance" has the meaning given in s. 292.01 (5).[✓]

11 (2) TAX DEED. If any property subject to a tax deed is not redeemed within the
12 time period provided under s. 74.57 (2) (b) (intro.),[✓] the governing body of the county
13 in which the property is located may direct the county clerk to execute a tax deed of
14 the property if all[✓] of the following apply:

15 (a) The county clerk complies with s. 75.14 (2)[✓] as it relates to the property.

1 (b) The governing body of the county provides written notice to the governing
2 body of the municipality in which the property is located at least [✓]15 days before the
3 governing body of the county meets to consider approving executing the tax deed.

4 (c) The property is a brownfield. [✓]

5 (d) An environmental assessment of the property is conducted and the results
6 of that assessment are provided to the department.

7 (e) If the property is contaminated by a hazardous substance, as determined
8 by the ~~the~~ assessment under par. (d), [✓] and the person to whom the tax deed is to be
9 executed agrees to accept the tax deed regardless of the contamination, the person
10 enters into an agreement with the department to, pursuant to rules established by
11 the department, clean up the property to the extent practicable; minimize the
12 harmful effects from the hazardous substance; and maintain and monitor the
13 property.

14 (3) ADMINISTRATION. [✓] Section 75.14 (1) and (4), [✓] as it applies to issuing a tax deed
15 under that section, applies to issuing a tax deed under sub. (2), except that a person
16 who accepts a tax deed under sub. (2) [✓] shall take title to, and is the owner of the
17 property. A person who accepts a tax deed under sub. (2) may commence an action
18 to bar any former owner of the property, and anyone claiming under a former owner,
19 from all right, title, interest, ³ or claim in the property in the manner specified under
20 ss. 75.39 to 75.42. [✓]

21 (END)

DATE: January 16, 2001

FILE REF: [Click here and type file ref.]

TO: Lance Potter, MB/5

FROM: Darsi Foss, RR/3

SUBJECT: Comments on LRB 1314/1 – Assignment of Tax Deed

Thank you for the opportunity to comment on this draft. Our single comment is based on the rationale that we would like this statutory provision to be as consistent as possible with two existing statutory provisions, ss. 75.105 and 75.106, Wis. Stats. In comparing this bill draft with those existing, related provisions, we recommend the following substantive, but minor changes to make this consistent with those provisions:

④ Why does LRB 1315 use the phrase “eligible site or facility” to define the eligible universe and this companion bill uses the definition of “brownfields,” particularly when they are defining the same universe? We recommend that we consistency use one term.

④ In s. 75.107 (2)(d), the Department recommends the following language change, as underlined.

“ An environmental assessment of the property has been conducted and the results of that assessment are provided to the department of natural resources.”

④ Modify s. 75.107(2)(d), Stats., to be consistent with s. 75.106: ← 75.105?

Insert the phrase “investigate and” into this section, line 11, prior to the word “clean up”. Thus, the party is required to investigate and clean up.

Thank you for the opportunity to comment.

Cc:

Judy Ohm, LS/5

Dan Kolberg, RR/3



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-13141

JK:jld:km

JKM

DOA:.....Wong - Tax deed assignment

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

in 1-16-01

SOON

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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promulgated

has been

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investigates

promulgated

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