

2013 DRAFTING REQUEST

Bill

Received: 7/23/2013 Received By: mshovers
Wanted: As time permits Same as LRB:
For: John Nygren (608) 266-2343 By/Representing: Nels
May Contact: Drafter: mshovers
Subject: Local Gov't - counties Addl. Drafters:
Local Gov't - munis generally Extra Copies: EVM

Submit via email: YES
Requester's email: Rep.Nygren@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit municipalities from passing on to counties the uncollected costs of razing a building

Instructions:

See attached. If a municipality razes a building under s. 66.0413 and the property owner does not pay the costs, and the cost becomes a special tax and is a lien against the real estate, ensure that if the property owner does not pay, the muni that razed the building is responsible for the razing costs -- not the county. {find out how the county becomes liable in the first place}

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>
/?	mshovers 7/24/2013			_____			
/P1	mshovers 9/4/2013	scalvin 8/2/2013	jmurphy 8/5/2013	_____	sbasford 8/5/2013		Local
/1		scalvin	rschluet	_____	mbarman	mbarman	Local

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		9/4/2013	9/5/2013	_____	9/5/2013	9/5/2013	

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*at
intro*

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1/1 NELS 9/4/13
1 sac
09/04/2013

9
8/5/13

Jacket for (A) per Nels

FE Sent For:

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1/?	mshovers	/PI sac 08/02/2013					
1/PME 5/24/13							
FE Sent For:							

<END>

Shovers, Marc

From: Rude, Nels
Sent: Tuesday, July 23, 2013 11:48 AM
To: Shovers, Marc
Subject: FW: Razing Statute

From: Larson, Brian
Sent: Tuesday, July 09, 2013 3:39 PM
To: Rude, Nels
Subject: RE: Razing Statute

*county can issue tax deed &
sell (prop) at sheriff's
sale - county's not like to do
this*

Nels,

Regarding the options available to municipalities under the current law, our reading of 66.0413 (1) (f) is that it gives the following options:

- (1) If an owner fails to comply with a raze order, prompting the municipality to raze the building itself, the municipality may "charge" the cost of the razing against the real estate. Charging the real estate is not required, though, so theoretically the municipality could just eat the cost.
- (2) Under the statute, a charge against the real estate for this purpose is considered a lien on the property. This means that the municipality could go after the money by foreclosing on the lien (keeping in mind that any primary lien-holders need to be paid from the proceeds first). Alternatively, the municipality could just record the lien and sit on it, allowing it to act as security for the debt. With patience, it may be possible to collect without having to foreclose. This could happen years later when, say, the owner tries to sell the property to a third-party. In that instance, most third parties would research the property, discover the lien, and require the seller to take care of the lien before the property is sold.
- (3) Also, under the statute, the municipality is given another option, in addition to getting a lien. That is, the statute allows the municipality to assess the cost and collect it as a special tax. This is easier than a foreclosure action and it does not require a wait for a third-party sale. But this is a separate option from enforcing the lien, not an either/or proposition.

I think that should answer the question as to current law, and what Marinette may do (or should be doing) under the current system. I am not up to speed on all of the differences between "special assessment," "special charge," and "special tax" - I note that all three of those terms are defined in ch. 74, but I am not sure how all of the differences play out. I'll be interested to see your proposal as it moves through; please let me know how I can help!

Brian Larson
Staff Attorney
Wisconsin Legislative Council
(608) 266-0680

From: Rude, Nels
Sent: Tuesday, July 09, 2013 1:04 PM
To: Larson, Brian
Subject: Razing Statute

Hey Brian- Hope all is well. Rep. Nygren has requested legislation be drafted that changes the designation of special tax in Wisconsin State Statute 66.0413(1)(f) to a special charge. We are doing this because we feel that counties should have the option, as with all special charges, of reimbursing the municipality for razing costs when property taxes are not paid.

(f) Failure to comply with order; razing building. An order under par. (b) shall specify the time within which the owner of the building is required to comply with the order and shall specify repairs, if any. If the owner fails or refuses to comply within the time prescribed, the building inspector or other designated officer may proceed to raze the building through any available public agency or by contract or arrangement with private persons, or to secure the building and, if necessary, the property on which the building is located if unfit for human habitation, occupancy or use. The cost of razing or securing the building may be charged in full or in part against the real estate upon which the building is located, and if that cost is so charged it is a lien upon the real estate and may be assessed and collected as a special tax. Any portion of the cost charged against the real estate that is not reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement may be assessed and collected as a special tax.

I am wondering if you can clarify how municipalities should be charging for this under current law. It looks like the cost IS to be charged as a lien, but it MAY (meaning the muni has discretion-i.e., special charge vs. special tax) be assessed and collected as a special tax. Is this accurate? The City of Marinette is currently charging it as a special charge and after discussing this proposal with them, they are wondering if they should be charging it as a tax, according to the statutes.

Thanks!

Nels

Nels Rude

Office of State Representative John Nygren
Co-Chair, Joint Committee on Finance
89th Assembly District
309 East, State Capitol
608.267.2371
nels.rude@legis.wi.gov

Shovers, Marc

From: Rude, Nels
Sent: Monday, July 08, 2013 1:43 PM
To: Shovers, Marc
Subject: RE: Razing Tax Legislation

Marc- Could you please give me a call (7-2371) when you have a minute to discuss this issue?

Thanks!

Nels

*called
7/10/13 7/16*

From: Rude, Nels
Sent: Wednesday, June 26, 2013 11:15 AM
To: Kreye, Joseph
Subject: Razing Tax Legislation

Hello Joe- Could you please draft legislation that would change the designation of special tax in Wisconsin State Statute 66.0413(1)(f) to a special charge? The goal of doing this is to provide counties with the option of reimbursing a municipality when property taxes are not paid after a property has been razed.

Thanks

Nels

Nels Rude

Office of State Representative John Nygren
Co-Chair, Joint Committee on Finance
89th Assembly District
309 East, State Capitol
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nels.rude@legis.wi.gov



SM *RMR*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

jm

1 AN ACT ...; relating to: changing the method by which a municipality may collect
2 the costs of razing a building from a property owner.

Analysis by the Legislative Reference Bureau

Under current law, a municipality's governing body, building inspector, or other designated official may issue an order to raze a dilapidated, dangerous, or unsanitary building that is unreasonable to repair. The order is issued to the building's owner and, if the owner does not comply with the order within the prescribed time, the municipality may proceed to raze the building. The cost of razing may be charged in full or in part against the real estate upon which the building is located, in which case that cost becomes a lien upon the real estate and may be assessed and collected as a special tax.

Under current law, if the cost or razing is assessed as a special tax and the owner of the real estate does not pay the amount due, the municipality's costs to raze the building must be paid by the county as part of the August settlement of property taxes. Under this bill, the cost of razing may be assessed and collected as a special charge, but may not be assessed and collected as a special tax. Under the bill, a county would not be required to pay a municipality's razing costs if the owner of real estate does not pay the special charge, even though a delinquent special charge becomes a lien on the property against which it is imposed.

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:

✕

1 SECTION 1. 66.0413 (1) (f) of the statutes is amended to read:

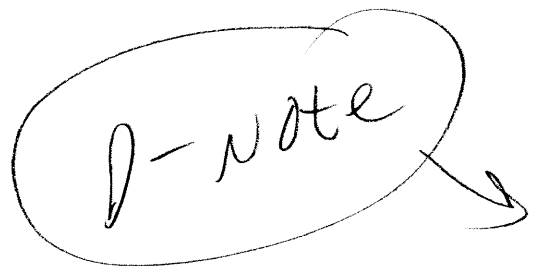
2 66.0413 (1) (f) *Failure to comply with order; razing building.* An order under
3 par. (b) shall specify the time within which the owner of the building is required to
4 comply with the order and shall specify repairs, if any. If the owner fails or refuses
5 to comply within the time prescribed, the building inspector or other designated
6 officer may proceed to raze the building through any available public agency or by
7 contract or arrangement with private persons, or to secure the building and, if
8 necessary, the property on which the building is located if unfit for human habitation,
9 occupancy or use. The cost of razing or securing the building may be charged in full
10 or in part against the real estate upon which the building is located, and if that cost
11 is so charged it is a lien upon the real estate and may be assessed and collected as
12 a special ~~tax~~ charge, but may not be assessed and collected as a special tax. Any
13 portion of the cost charged against the real estate that is not reimbursed under s.
14 632.103 (2) from funds withheld from an insurance settlement may be assessed and
15 collected as a special tax.

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413; 2001 a. 103; 2005 a. 442.

16 SECTION 2. **Initial applicability.**

17 (1) This act first applies to a building that is razed on the effective date of this
18 subsection.

19 (END)



**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2736/P1dn

MES. D.J.:....

b sac

- date -

Rep. Nygren:

Please review this draft carefully to ensure that it meets your intent. Joe Kreye and I spoke to Kyle Christianson about this bill and Kyle recommended that I make the change from "special tax" to "special charge" in s. 66.0413 (1) (f), stats., and indicated that this change would prevent a county from having to reimburse a municipality for delinquent razing costs. Kyle stated that as part of the August settlement of property taxes under s. 74.29, stats., a county treasurer is required, in effect, to reimburse a municipality for razing costs that are added to the property tax roll.

I've made the requested change in s. 66.0413 (1) (f), but after reading the statute on special charges, I'm not sure that this solves the problem. It seems to me that the language of s. 66.0627 (4), stats., may lead to the same problem by requiring a county treasurer to reimburse a municipality for razing costs as is done under current law.

Section 66.0627 (4) states, in part: "A delinquent special charge becomes a lien on the property against which it is imposed as of the date of delinquency. **The delinquent special charge shall be included in the current or next tax roll for collection and settlement under ch. 74.**" You may want to check with Mr. Christianson to see if he believes that this provision could require a county treasurer to reimburse a municipality for razing costs because of s. 74.29, stats., the provision which led to the drafting request in the first place. If this reading of the statute is correct, it seems that s. 74.29, stats., may need to be amended to prevent the problem you've described in your instructions.

Please let me know if any changes are needed to the bill. Thanks.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2736/P1dn
MES:sac:jm

August 5, 2013

Rep. Nygren:

Please review this draft carefully to ensure that it meets your intent. Joe Kreye and I spoke to Kyle Christianson about this bill and Kyle recommended that I make the change from "special tax" to "special charge" in s. 66.0413 (1) (f), stats., and indicated that this change would prevent a county from having to reimburse a municipality for delinquent razing costs. Kyle stated that as part of the August settlement of property taxes under s. 74.29, stats., a county treasurer is required, in effect, to reimburse a municipality for razing costs that are added to the property tax roll.

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Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2736/PT

MES:sac:im

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ref

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