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# Wisconsin Legislative Council

## ACT MEMO

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May 16, 2022

**2021 Wisconsin Act 216**  
[2021 Senate Bill 829]

**Proceeds From Sales of Tax  
Delinquent Property**

### BACKGROUND

State law authorizes a county to acquire by tax deed and subsequently sell property for which property taxes are delinquent (tax delinquent property).<sup>1</sup> Prior law generally authorized the county to retain the net proceeds from the sale of the tax delinquent property, with an exception for property that was used by the former owner as a homestead at any time during the five years preceding the county's acquisition of the property. In such cases, prior law required the county to provide notice that the former owner may be entitled to a share of the proceeds. Unless the former owner requested payment within 60 days of receiving notice from the county, the former owner forfeited all claims to the proceeds.

Also under prior law, if a former homestead owner was entitled to receive proceeds, the county deducted certain penalty amounts from the gross proceeds. Very generally, the penalty deduction was the greater of either: (1) \$500 plus 50 percent of the remaining net proceeds after deducting actual costs; or (2) two percent of the sale price plus actual costs and the amount of property taxes that would have been owed on the property for the year during which the sale occurs.

### 2021 WISCONSIN ACT 216

2021 Wisconsin Act 216 entitles a former owner to receive the net proceeds from the sale of tax delinquent property regardless of whether the former owner used the property as a homestead. To accomplish this, the act eliminates the requirement that a former owner must request payment within 60 days of receiving notice in order to receive the payment. A former owner, however, forfeits the right to any net proceeds if the county cannot locate the former owner within five years of providing notice that the former owner may be entitled to a share of the proceeds.

Prior to paying net proceeds to the former property owner, the act requires the county to use the net proceeds to pay off any lien placed on the property at the time of the sale. If the net proceeds cannot satisfy all liens, the county must pay lienholders in priority based upon the date of the lien, as determined by the circuit court for the county in which the property is located.

The act also eliminates the county's deduction of the penalty amounts described in the previous section from the proceeds of the sale of tax delinquent property. Under the act, the county may still deduct actual costs from the proceeds when determining the net proceeds, and may deduct plus any amount of property taxes that would have been owed on the property for the year during which the sale.

**Effective date:** April 2, 2021

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<sup>1</sup> These procedures apply also to a first-class city (the City of Milwaukee).