



2023 ASSEMBLY BILL 969

January 17, 2024 - Introduced by Representatives PENTERMAN, SCHMIDT, KRUG, GREEN, MURSAU, EDMING, MURPHY, RETTINGER, DITTRICH and GOEBEN, cosponsored by Senators STAFSHOLT, TAYLOR, COWLES and QUINN. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 59.69 (8) and 75.36 (3) (bm); *to renumber and amend* 75.35
2 (2) (a), 75.35 (2) (e) and 75.36 (2m); *to amend* 75.35 (2) (title), 75.35 (2) (d), 75.35
3 (3), 75.35 (7), 75.36 (3) (a) 2., 75.36 (3) (a) 3. and 75.69 (2); and *to create* 75.35
4 (2) (ag), 75.36 (2k) and 75.36 (2m) (b) of the statutes; **relating to:** the county
5 sale of tax-deeded lands.

Analysis by the Legislative Reference Bureau

This bill makes changes to current law regarding the process by which a county sells land it has acquired by a tax-deed for the enforcement and collection of delinquent property taxes. The changes include the following:

1. Under current law, a county board is authorized to engage licensed real estate brokers and salespersons to assist in selling tax-deeded land. Under the bill, the county may sell such lands by open or closed bid.

2. Under current law, when selling tax-deeded land, the county may give preference to the former owner or heirs of the former owner who wish to purchase the land. Under the bill, the county may also give preference to the beneficiaries of the former owner who wish to purchase the land.

3. Except for counties with a population of 750,000 or more, current law prohibits the sale of tax delinquent real property acquired by a county unless the sale and appraised value of the property has first been advertised by publication of a class 3 notice. However, a county that enacts an ordinance giving preference to the former owner or the heirs of the owner who wish to purchase the property is exempt from

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the requirement that the sale must first be advertised by publishing a notice, if the net proceeds from the sale are sufficient to pay all special assessments and special charges on the property, including interests.

Under the bill, this exemption applies if the net proceeds from the sale are equal to or exceed the amounts owed the county as delinquent taxes, interests, penalties, and amounts associated with selling the property.

4. Under current law, the net proceeds from the county's sale of the property are determined by subtracting certain amounts from the sales price, such as the amount of real estate agent or broker fees paid for selling the property. The bill modifies current law by allowing the subtraction of reasonable and customary real estate agent or broker fees or other actual costs paid for selling the property.

5. Under current law, if the county is unable to locate the former owner within five years following the mailing of the notice, the former owner forfeits the right to any remaining equity in the property. The bill eliminates that provision.

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.** 59.69 (8) of the statutes is repealed.

2 **SECTION 2.** 75.35 (2) (title) of the statutes is amended to read:

3 75.35 (2) (title) ~~POWER OF COUNTY~~ COUNTY REQUIRED TO SELL ARRANGE FOR THE
4 SALE OF TAX-DEEDED LANDS.

5 **SECTION 3.** 75.35 (2) (a) of the statutes is renumbered 75.35 (2) (am) and
6 amended to read:

7 75.35 (2) (am) ~~Except as provided in s.~~ Subject to this section and ss. 75.36 and
8 75.69, any county shall have the power to sell and convey its tax-deeded lands in
9 such manner and upon such terms as the county board may by ordinance or
10 resolution determine, ~~including without restriction because of enumeration, sale by~~
11 ~~land contract, or by quitclaim or warranty deed with mortgage from vendee to secure~~
12 ~~any unpaid balance of the purchase price. Such mortgage may be foreclosed in the~~
13 ~~same manner as any other mortgage. The title to lands conveyed by land contract~~

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1 ~~shall remain in the county until fully paid for and in the event of default in such~~
2 ~~payment the county may foreclose the land contract with costs and reasonable~~
3 ~~attorney fees. When such land contract runs to a person or private corporation, the~~
4 ~~lands therein conveyed shall be placed on the tax roll and be subject to taxation the~~
5 ~~same as though absolute title thereto was vested in the purchaser under such land~~
6 ~~contract. Such purchaser shall be liable to pay all taxes against such land and in the~~
7 ~~event of failure to make such payment the county may pay the same and add the sum~~
8 ~~so paid to the amount due on the land contract.~~

9 **SECTION 4.** 75.35 (2) (ag) of the statutes is created to read:

10 75.35 (2) (ag) If a property or the county is subject to s. 66.1006, the county shall
11 publish the notice under s. 75.69 (1) no later than 180 days after the date of approval
12 from the department of natural resources.

13 **SECTION 5.** 75.35 (2) (d) of the statutes is amended to read:

14 75.35 (2) (d) The county board may delegate its power to manage and sell
15 tax-deeded lands to a committee constituted of such personnel and in such manner
16 and compensated at such rate as the county board may by ordinance determine,
17 provided that the compensation and mileage of county board members serving on
18 such committee shall be limited and restricted as provided in s. 59.13 (2), or the
19 county board may delegate the power of acquisition, management and sale of
20 tax-deeded lands or any part of such power to such officer and departments of the
21 county as the county board may by ordinance determine. Such ordinance shall
22 prescribe the policy to be followed in the acquisition, management and sale of
23 tax-deeded land and shall prescribe generally the powers and duties of such
24 committee, officers, departments, employees and agents. The county board is
25 authorized to sell and convey its tax-deeded lands by open or closed bid or to engage

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1 licensed real estate brokers and salespersons to assist in selling such lands and pay
2 a commission for such service and to advertise such sale in such manner as it deems
3 proper. The county board may appropriate such sums of money as may be necessary
4 to carry out the provisions of this section.

5 **SECTION 6.** 75.35 (2) (e) of the statutes is renumbered 75.35 (2) (e) 1. and
6 amended to read:

7 75.35 (2) (e) 1. Any county acting either by its board or by delegated authority
8 as provided in this section may sell and convey tax-deeded lands to the former owner
9 or owners thereof ~~and such~~ before or after publication of the notice required par. (ag)
10 and without complying with s. 75.69.

11 2. A conveyance under subd. 1. shall not operate to revive any tax certificate
12 lien or any other lien whatsoever which was cut off and rendered void by the tax deed,
13 foreclosure of tax certificate, deed in lieu of tax deed, action in rem under s. 75.521
14 or other means by which the county acquired title to such land, nor shall it revive the
15 lien of any tax certificate or tax dated subsequently to the date on which the county
16 acquired its title. The enactment into statute law of the provisions of this paragraph
17 shall not be deemed an expression of legislative intent that the prior common law of
18 this state was otherwise than as herein provided.

19 **SECTION 7.** 75.35 (3) of the statutes is amended to read:

20 75.35 (3) PREFERENCE TO FORMER OWNER TO REPURCHASE. The county board may,
21 at its option, by ordinance provide that in the sale of tax-deeded lands, the former
22 owner who lost his or her title through delinquent tax collection enforcement
23 procedure, or his or her beneficiaries, as defined in s. 851.03, or heirs, as defined in
24 s. 851.09, may be given such preference in the right to purchase such lands as such
25 ordinance shall provide. Such ordinance may provide that such sale be exempt from

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1 any or all provisions of s. 75.69 if the net proceeds from the sale to the former owner
2 ~~as determined are equal to or exceed the amounts due the county under s. 75.36 (2m)~~
3 ~~and (3) will be sufficient to pay all special assessments and special charges to which~~
4 ~~the property is subject, including interest imposed under s. 74.47, or if the county~~
5 ~~settles in full with the taxing jurisdiction for special assessments, as defined in s.~~
6 ~~75.36 (1), to which the property is subject. Such ordinance shall not apply to~~
7 ~~tax-deeded lands which have been improved for or dedicated to a public use by the~~
8 ~~county subsequent to its acquisition thereof.~~

9 **SECTION 8.** 75.35 (7) of the statutes is amended to read:

10 75.35 (7) LIABILITY PRECLUDED. Absent fraud, no county is liable for acts or
11 omissions associated with the sale of property under this section, including the
12 process by which the property is sold.

13 **SECTION 9.** 75.36 (2k) of the statutes is created to read:

14 75.36 (2k) COUNTY SALE OF PROPERTY. Unless otherwise provided in this chapter,
15 any property acquired by a county by tax deed under this chapter shall be disposed
16 of as provided under this section and ss. 75.35 and 75.69.

17 **SECTION 10.** 75.36 (2m) of the statutes is renumbered 75.36 (2m) (a) and
18 amended to read:

19 75.36 (2m) (a) Upon acquisition of a tax deed under this chapter, the county
20 treasurer shall notify the former owner, by registered mail or certified mail sent to
21 the former owner's mailing address on the tax bill, that the former owner may be
22 entitled to a share of the proceeds of a future sale. The county shall send to the former
23 owner the proceeds identified in sub. (3) (c) minus any delinquent taxes, interest, and
24 penalties owed by the former owner to the county in regard to other property and
25 minus the actual costs of the sale as specified under sub. (3) (a) plus all amounts

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1 disbursed under sub. (3) (b) ~~and (bm)~~ and plus the amount of property taxes that
2 would have been owed on the property for the year during which the sale occurs if
3 the county had not acquired the property. ~~If the county is unable to locate the former~~
4 ~~owner within 5 years following the mailing of the notice under this subsection, the~~
5 ~~former owner forfeits the right to any remaining equity in the property.~~

6 **SECTION 11.** 75.36 (2m) (b) of the statutes is created to read:

7 75.36 **(2m)** (b) If the payment to the former owner under par. (a) is returned
8 to the county or otherwise not claimed by the former owner within one year following
9 the mailing of the proceeds under par. (a), the payment shall be considered
10 unclaimed funds and disposed of pursuant to s. 59.66 (2). Neither the former owner
11 nor any person making claim for any funds under this section is entitled to interest
12 on sums owed by the county under this section.

13 **SECTION 12.** 75.36 (3) (a) 2. of the statutes is amended to read:

14 75.36 **(3)** (a) 2. The amount of reasonable and customary real estate agent or
15 broker fees or other actual costs paid for selling the property.

16 **SECTION 13.** 75.36 (3) (a) 3. of the statutes is amended to read:

17 75.36 **(3)** (a) 3. All amounts of unpaid general property taxes, interest,
18 penalties, special assessments, special charges and special taxes levied against the
19 property sold, including interest and penalties imposed under s. 74.47 previously
20 paid to taxing jurisdictions by the county.

21 **SECTION 14.** 75.36 (3) (bm) of the statutes is repealed.

22 **SECTION 15.** 75.69 (2) of the statutes is amended to read:

23 75.69 **(2)** This section shall not apply ~~to exchange of property under s. 59.69 (8),~~
24 to withdrawal and sale of county forest lands, nor to the sale or exchange of lands to
25 or between municipalities or to the state.

