

---

# Wisconsin Legislative Council

## ACT MEMO

---



Prepared by: Anna Henning, Senior Staff Attorney

December 14, 2021

### 2021 Wisconsin Act 107 [2021 Senate Bill 434]

### Municipal Raze Orders

2021 Wisconsin Act 107 modifies the process that municipalities must follow to issue raze orders for certain insured dwellings,<sup>1</sup> if an insurer submits a certification to a municipality within 14 days of the real property incurring damage. The certification must include all of the following:

- A statement that the insurer reasonably believes that the real property may qualify as an insured dwelling.
- A statement that the property owner or an insured has filed a claim or the insurer has reason to believe that a claim will be filed.
- A statement that the insurer reasonably believes that the claim may qualify as covered damage.<sup>2</sup>
- The date of the damage to the insured dwelling.
- The insurance policy limits of the insured dwelling.
- The insurer's designated representative for the filed or anticipated claim.
- The designated representative's mailing address, email address, and phone number.

If a municipality receives such a certification from an insurer, it generally may not issue a raze order for the dwelling unless it follows certain steps, including all of the following:

- Provide a notice of intent to issue a raze order to the owner of record of the insured dwelling, the holder of any encumbrance, and the insurer.
- Accept and consider materials submitted by any of those persons, if the materials assist in establishing the extent of the damage or reasonable cost of repairs.<sup>3</sup> When considering the materials submitted by persons entitled to notice, the municipality must consider the qualifications, expertise, and experience of the person that submitted the materials.
- Conduct an on-site inspection of the insured dwelling to assess the extent of the damage.
- Determine the estimated cost of repairs for the insured dwelling.
- Determine that the repair of the insured dwelling is not reasonable.

---

<sup>1</sup> As defined by the act, an "insured dwelling" is real property that is covered under an insurance policy and that is owned, occupied, and used primarily as a dwelling by the insured.

<sup>2</sup> In this context, "covered damage" is damage that is covered by an insurance policy.

<sup>3</sup> The cost of repairs includes the estimated cost of repairs necessary to comply with applicable building codes or other ordinances or regulations that govern the repair or renovation of a dwelling. In general, repairs are presumed to be reasonable unless the estimated cost of repairs exceeds 50 percent of a formula based on the assessed value of the property. [s. 66.0413 (1) (c), Stats.] However, the act modifies that presumption for any insured dwelling. Specifically, under the act, the cost of repairs for an insured dwelling is presumed to be reasonable unless the estimated cost exceeds 70 percent of the dwelling's insurance policy limits.

However, under the act, a municipality retains the authority to order the owner of the dwelling to make the building safe and sanitary. In addition, the new raze order process under the act does not apply in either of the following circumstances:

- If the municipality determines that the dwelling is in imminent danger of structural collapse and the owner has failed to appropriately secure and limit access to the dwelling.
- If the insurer notifies the municipality that the insurer determines the dwelling is wholly destroyed.

**Effective date:** December 5, 2021. The act first applies to real property that incurred damage on that date.

AH:jal