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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2023 Assembly Bill 969**

**Assembly Substitute  
Amendment 1**

### BACKGROUND

Generally, ch. 75, Stats., regulates county<sup>1</sup> sales of tax deeded<sup>2</sup> property. This chapter gives a county the power to sell property it acquires through tax deed and specifies processes related to this power. [ss. 75.35, 75.36, and 75.69, Stats.] One of these processes is the ability for a county to pass an ordinance to give preference to the former owner who lost their title through a delinquent tax collection enforcement procedure. [s. 75.35 (3), Stats.] Also, once a county acquires a tax deed, the county treasurer must notify the former owner that they may be entitled to a share of the excess proceeds at a future sale. If there are excess proceeds after the sale of the property, the county must send those excess proceeds to the former owner. If the county is unable to locate the former owner within five years of mailing the notice of entitlement, then the former owner forfeits their right to any remaining equity. [s. 75.36 (2m), Stats.] Lastly, current law requires a county to notice the sale and appraised value of tax deeded property by publication of a class 3 notice<sup>3</sup> before it can be sold. [s. 75.69 (1), Stats.] There are various exceptions to this notice publication requirement, including for a county with a population of 750,000 or more. [s. 75.69 (1m), Stats.]

### 2023 ASSEMBLY BILL 969

2023 Assembly Bill 969 makes various changes to ch. 75, Stats., regarding how counties sell or otherwise dispose of tax deeded properties, including the removal of their ability to exchange tax deeded property, how excess proceeds are calculated, and the timeline with respect to claiming excess proceeds. More specifically, if a property is subject to an approval of discontinuance by the Department of Natural Resources (DNR), the county must publish the notice of sale within 180 days of the grant approval from DNR.<sup>4</sup> Additionally, the bill expands the repurchase preference that may be given to a former owner of tax deeded property to include a former owner's beneficiaries and heirs. The bill also allows a county to sell tax deeded land to the former owner without first publishing the notice of sale. Lastly, the bill first applies to properties sold on the effective date of the bill.

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<sup>1</sup> These procedures also apply to a first class city (the City of Milwaukee). Unless the context specifically indicates otherwise, all powers granted to counties in this chapter are granted to that city. [s. 75.06, Stats.]

<sup>2</sup> Under ch. 75, Stats., tax deed means a tax deed executed under s. 75.14, Stats., a deed executed under s. 75.19, Stats., or a judgement issued under s. 75.521, Stats.

<sup>3</sup> Publication of legal notices are generally regulated by ch. 985, Stats.

<sup>4</sup> DNR approvals of discontinuance are regulated by s. 66.1006, Stats., which requires DNR approval for a town or county action that discontinues a highway, street, alley, or right-of-way that provides public access to any navigable lake or stream.

## **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Substitute Amendment 1 makes six main changes to the bill. First, the substitute amendment alters the timeline to publish notice of sale if DNR's approval of discontinuance is needed. Under the substitute amendment, the county must publish notice of the sale within 240 days of the approval until 2026. Starting in 2026, the county must publish the notice of the sale within 180 days of the approval.

Second, the substitute amendment requires, rather than allows, a county to have an ordinance or resolution giving former owners, their beneficiaries, or their heirs the right to repurchase land lost through tax deed by paying the county for all costs and expenses incurred, plus any taxes that would have been owed while the county owned the property and amounts to satisfy any other liens at the time of the foreclosure prior to the sale of the land. The ordinance must apply to single-family, owner-occupied properties, and may also apply to all other properties.

Third, under the substitute amendment, counties are generally required to publish notice of the sale and appraised value of the property by publishing on the county's website and either a publication under a Class 1 notice or advertising on a multiple listing service. The notice must be published within 240 days of the county acquiring the property until 2026. Starting in 2026, the county must publish the notice of the sale within 180 days of acquisition.

Fourth, the substitute amendment replaces the current exception from publishing the notice of the sale for a county with a population of 750,000, and instead requires a county to publish the notice within 36 months of acquiring the property, if the property is in a county with a population of 750,000 or more and meets any of the following criteria:

- The property is a vacant lot;
- The property is a residential property occupied by a person with a valid ownership or leasehold interest in the property at the time of foreclosure, but the property is not a single-family, owner-occupied residence;
- The property is subject to a redemption or sale-back process;
- The property qualifies for a raze order;
- The county has estimated a cost of repair that exceeds 50 percent of the property's assessed value in the year the county acquires it;
- The delinquent property taxes, fees, interest, penalties, and other costs exceed 75 percent of the property's assessed value in the year the county acquires it;
- The county has reason to believe the property is a brownfield; or
- The property is subject to a hazardous substance.

The substitute amendment specifies that the sale of single-family, owner-occupied residences are subject to the general notice publication requirements, unless the residence meets all but the first two of the above-listed criteria. Also, if the property is located in a county with a population of 750,000 or more and the county acquires the property before the effective date of the bill, the county must attempt to sell the property within 10 years of the effective date. If any property remains unsold after the 10-year period, the county must advertise the sale of the property by publishing on their website and publishing in either a Class 1 notice or a multiple listing service within 180 days of the 10-year period expiring, regardless of property type.

Fifth, the substitute amendment allows any county to petition the circuit court that handled the initial tax foreclosure for relief from any of the provisions of ch. 75, Stats., including the deadlines for

publishing notice for a specific property if the petition is filed no later than the deadline for publishing notice of the sale.

Lastly, the substitute amendment changes the effective date of the bill. The bill generally applies to land acquired on or after April 1, 2022, except that the bill does not impact any sale of tax-deeded land that occurred prior to or 90-days after the effective date. Also, with respect to the notice of the sale for tax-deeded lands acquired before the effective date of the bill, the bill first applies on the date that is 240 days after the effective date.

## **BILL HISTORY**

Assembly Substitute Amendment 1 was offered by Representative Brooks on February 22, 2024. On February 22, 2024, the Assembly voted to adopt Assembly Substitute Amendment 1 and passed the bill, as amended, on voice votes.

For a full history of the bill, visit the Legislature's [bill history page](#).

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