

# State of Wisconsin



2021 Senate Bill 254

Date of enactment: **October 15, 2021**

Date of publication\*: **October 16, 2021**

## 2021 WISCONSIN ACT 80

AN ACT *to amend* 70.511 (2) (a), 74.35 (5) (c) and 74.37 (4) (b); and *to create* 893.38 of the statutes; **relating to:**  
extension of certain approvals that are subject to administrative, judicial, or appellate proceedings, waiver of interest and penalties on late 2021 property tax payments, and waiver of the timely payment requirement for filing certain property tax claims.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 70.511 (2) (a) of the statutes is amended to read:

70.511 (2) (a) If the reviewing authority has not made a determination prior to the time of the tax levy with respect to a particular objection to the amount, valuation or taxability of property, the tax levy on the property or person shall be based on the contested assessed value of the property. A tax bill shall be sent to, and paid by, the person subject to the tax levy as though there had been no objection filed, except that the payment shall be considered to be made under protest. The entire tax bill shall be paid when due under s. 74.11, 74.12 or 74.87 even though the reviewing authority has reduced the assessment prior to the time for full payment of the tax billed. The requirement to pay a tax timely under this paragraph does not apply to taxes due and payable in 2020 if paid by October 1, 2020, or by any installment date for which taxes are due after October 1, 2020, nor to taxes due and payable in 2021 if paid by October 1, 2021, or by any installment date for which taxes are due after October 1, 2021.

**SECTION 2.** 74.35 (5) (c) of the statutes is amended to read:

74.35 (5) (c) No claim may be filed or maintained under this section unless the tax for which the claim is filed, or any authorized installment payment of the tax, is timely paid under s. 74.11, 74.12 or 74.87. This paragraph does not apply to taxes due and payable in 2020 if paid by October 1, 2020, or by any installment date for which taxes are due after October 1, 2020, nor to taxes due and payable in 2021 if paid by October 1, 2021, or by any installment date for which taxes are due after October 1, 2021.

**SECTION 3.** 74.37 (4) (b) of the statutes is amended to read:

74.37 (4) (b) No claim or action for an excessive assessment may be brought or maintained under this section unless the tax for which the claim is filed, or any authorized installment of the tax, is timely paid under s. 74.11 or 74.12. This paragraph does not apply to taxes due and payable in 2020 if paid by October 1, 2020, or by any installment date for which taxes are due after October 1, 2020, nor to taxes due and payable in 2021 if paid by October 1, 2021, or by any installment date for which taxes are due after October 1, 2021.

**SECTION 4.** 893.38 of the statutes is created to read:  
**893.38 Extension of certain approvals. (1) DEFINITIONS.** In this section:

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(a) “Challenged permit” means a permit or other approval to which all of the following apply:

1. The permit or other approval authorizes a construction project.
2. The application for the permit or other approval includes a description of the construction project.
3. The permit or other approval was issued by a governmental unit and becomes or remains subject to administrative, judicial, or appellate proceedings, whether or not any proceeding reversed the permit or other approval.
4. The permit or other approval has or had a finite term or duration, and the term or duration has not expired.
5. The permit or other approval is the subject of administrative, judicial, or appellate proceedings that may result in the invalidation, reconsideration, or modification of the permit or approval, provided that the proceedings, or, if the proceedings are reviewing another decision, the proceedings originating the review proceedings were initiated by a person other than the holder of the permit or approval.

(b) “Challenged plat or survey” means a plat or certified survey map approval that is the subject of administrative, judicial, or appellate proceedings that may result in the invalidation, reconsideration, or modification of the approval, provided that the proceedings, or, if the proceedings are reviewing another decision, the proceedings originating the review proceedings were initiated by a person other than the holder of the approval.

(c) “Construction project” means organized improvements to real property that include the construction or redevelopment of at least one building for occupancy.

(d) “Covered approval” means a challenged permit or challenged plat or survey.

(e) “Governmental unit” means the department of natural resources, the department of transportation, a city, a village, a town, a county, or a special purpose district.

(2) **AUTOMATIC EXTENSION.** A person who has received a covered approval shall obtain an automatic extension of the covered approval by notifying the governmental unit that issued the covered approval of the person’s decision to exercise the extension not more than 90 days nor less than 30 days before the expiration of the unextended term or duration of the covered approval. A notification under this subsection shall be in writing and shall specify the covered approval extended. This subsection does not apply to a covered approval for which an automatic extension is not allowed under applicable federal law.

(3) **TERM OF EXTENSION.** The term or duration of a covered approval extended under sub. (2) is an amount of time equal to 36 months plus the duration of the administrative, judicial, or appellate proceedings to which the covered approval is subject. For purposes of calculating the duration of administrative, judicial, or appellate pro-

ceedings under this subsection, proceedings begin on the date of the initial filing of the proceedings, or, if the proceedings are reviewing another decision, the proceedings originating the review proceedings and end on the date of the final order disposing of all proceedings.

(4) **EFFECT OF ORDERS.** A covered approval extended under sub. (2) is subject to any order concerning the covered approval that is issued in an administrative, judicial, or appellate proceeding, including a suspension, injunction, restraining order, invalidation, reconsideration, or modification.

(5) **CHANGE OF LAW.** Except as provided in s. 66.10015, the laws, regulations, ordinances, rules, or other properly adopted requirements that were in effect at the time the covered approval was issued shall apply to the construction project, plat, or certified survey map during the period of extension. This subsection does not apply to the extent that a governmental unit demonstrates that the application of this subsection will create an immediate threat to public health or safety.

(6) **REGULATION OF SAFETY AND SANITATION.** This section does not limit any state or local unit of government from requiring that property be maintained and secured in a safe and sanitary condition in compliance with applicable laws, administrative rules, or ordinances.

(7) **EXCEPTIONS.** This section does not apply to any of the following:

(a) A covered approval under any programmatic, regional, or nationwide general permit issued by the U.S. army corps of engineers.

(b) A covered approval that authorizes a water pollutant discharge under s. 283.31, 283.33, or 283.35 or construction or operation of a stationary source under s. 285.60.

(c) The holder of a covered approval who is determined by the issuing governmental unit to be in significant noncompliance with the conditions of the covered approval as evidenced by written notice of violation or the initiation of a formal enforcement action.

#### **SECTION 5. Nonstatutory provisions.**

(1) **INTEREST AND PENALTIES ON LATE PROPERTY TAX PAYMENTS.** Notwithstanding ss. 74.11, 74.12, and 74.87, for property taxes payable in 2021, after making a general or case-by-case finding of hardship, a taxation district may provide that an installment payment that is due and payable after January 1, 2021, and is received after its due date shall not accrue interest or penalties if the total amount due and payable in 2021 is paid on or before October 1, 2021. Interest and penalties shall accrue from October 1, 2021, for any property taxes payable in 2021 that are delinquent after October 1, 2021. A taxation district may not waive interest and penalties as provided in this subsection unless the county board of the county where the taxation district is located first adopts a resolution authorizing such waiver and establishing criteria for determining hardship, and the taxation district subse-

quently adopts a similar resolution; except that a 1st class city may waive interest and penalties as provided in this subsection if the city adopts a resolution authorizing such waiver and establishing criteria for determining hardship, and no action with respect to a resolution may be required of the county board of the county where the 1st class city is located. A county that has adopted a resolution authorizing the waiver of interest and penalties under this subsection shall settle any taxes, interest, and penalties collected on or before July 31, 2021, on August 20, 2021, as provided under s. 74.29 (1), and settle the

remaining unpaid taxes, interest, and penalties on September 20, 2021. The August 20, 2021, settlement shall be distributed proportionally to the underlying taxing jurisdictions.

**SECTION 6. Initial applicability.**

(1) The treatment of s. 893.38 first applies to a challenged permit, as defined in s. 893.38 (1) (a), or challenged plat or certified survey, as defined in s. 893.38 (1) (b), about which administrative, judicial, or appellate proceedings are pending on the effective date of this subsection.

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