

3.63 TAX DEED LANDS (10/3/89)

*11/16  
Repealed 1993*

*4/92 Reprinted due to  
conversion*

(1) Purchase Of.

- (a) The former owner of lands which are hereafter held by the County under tax deeds may be given preference in the purchase of such lands from the County as hereinafter set forth. Such preference of the former owner shall also extend to his or her heirs. This ordinance is enacted pursuant to section 75.35(3) of the Wisconsin Statutes.
- (b) The former owner or heirs may only exercise the option under this ordinance to purchase such lands for a period of 30 days following the date on which the county receives such land by tax deed.
- (c) At the time the former owner or his heirs exercise the option to purchase such land, he or they shall tender to the County or to its proper officers all taxes, interest, special assessments and special charges, and penalties levied or assessed against such lands plus the amount of taxes that would have been owed on the property if the County had not acquired the property together with the greater of \$75.00 or actual expenses to cover the costs of publication, recording fees, other related costs, service fees and service costs, and search of the title. Upon the tender of such sum, the County, by its proper officers, may execute, acknowledge, and deliver a quit claim deed covering such premises to the former owner or his heirs.
- (d) The tax deed lands sold by the County to the former owner of such lands or his heirs shall not be subject to the provisions of section 75.69 of the Wisconsin Statutes relating to the appraisal and sale of tax deed lands.
- (e) This section shall not apply to tax deeded lands which have been improved for or dedicated to a public use by the municipality subsequent to its acquisition thereof.
- (f) No former owner shall be eligible under this ordinance, if they had any mortgages, tax liens, judgments against the property at the time of tax deed unless then can give proof of reinstatement of said mortgages, state and federal tax liens, and/or judgments during the 30 day period. (3/20/90)

3.64 PUBLIC RECORDS AND PROPERTY

- (1) Declaration of Policy and Intent. It is the intent of the Kenosha County Board of Supervisors to enact legislation in compliance with sections 19.31 through 19.39 of the Wisconsin Statutes and all other provisions of state statutes relative to public records. In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this county that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and

of the lands in such town exempt under this section. Nothing in this section shall be so construed as to apply to lands owned by minors or persons adjudged mentally incompetent.

**History:** 1977 c. 29 s. 1647 (6); 1977 c. 83, 203; 1987 a. 378.

**75.35 Sale of tax-deeded lands; purchase of adjacent lands.** (1) **DEFINITION.** In this section "tax-deeded lands" means lands which have been acquired by a county through enforcement of the collection of delinquent taxes by tax deed, foreclosure of tax certificate, deed in lieu of tax deed, action in rem under s. 75.521 or other means.

(2) **POWER OF COUNTY TO SELL TAX-DEEDED LANDS.** (a) Except as provided in s. 75.69, any county shall have the power to sell and convey its tax-deeded lands in such manner and upon such terms as the county board may by ordinance or resolution determine, including without restriction because of enumeration, sale by land contract, or by quitclaim or warranty deed with mortgage from vendee to secure any unpaid balance of the purchase price. Such mortgage may be foreclosed in the same manner as any other mortgage. The title to lands conveyed by land contract shall remain in the county until fully paid for and in the event of default in such payment the county may foreclose the land contract with costs and reasonable attorney fees. When such land contract runs to a person or private corporation, the lands therein conveyed shall be placed on the tax roll and be subject to taxation the same as though absolute title thereto was vested in the purchaser under such land contract. Such purchaser shall be liable to pay all taxes against such land and in the event of failure to make such payment the county may pay the same and add the sum so paid to the amount due on the land contract.

(c) Any conveyance by land contract or deed or satisfaction of mortgage shall be executed by the county clerk under the clerk's hand and the seal of the county.

(d) The county board may delegate its power to manage and sell tax-deeded lands to a committee constituted of such personnel and in such manner and compensated at such rate as the county board may by ordinance determine, provided that the compensation and mileage of county board members serving on such committee shall be limited and restricted as provided in s. 59.13 (2), or the county board may delegate the power of acquisition, management and sale of tax-deeded lands or any part of such power to such officer and departments of the county as the county board may by ordinance determine. Such ordinance shall prescribe the policy to be followed in the acquisition, management and sale of tax-deeded land and shall prescribe generally the powers and duties of such committee, officers, departments, employees and agents. The county board is authorized to engage licensed real estate brokers and salespersons to assist in selling such lands and pay a commission for such service and to advertise such sale in such manner as it deems proper. The county board may appropriate such sums of money as may be necessary to carry out the provisions of this section.

(e) Any county acting either by its board or by delegated authority as provided in this section may sell and convey tax-deeded lands to the former owner or owners thereof and such conveyance shall not operate to revive any tax certificate lien or any other lien whatsoever which was cut off and rendered void by the tax deed, foreclosure of tax certificate, deed in lieu of tax deed, action in rem under s. 75.521 or other means by which the county acquired title to such land, nor shall it revive the lien of any tax certificate or tax dated subsequently to the date on which the county acquired its title. The enactment into statute law of the provisions of this paragraph shall not be deemed an expression of legislative intent that the prior common law of this state was otherwise than as herein provided.

(f) If special assessments, as defined in s. 75.36 (1), levied on the tax-deeded land have not been settled in full under s. 74.29 or otherwise paid to the taxing jurisdiction that levied the special assessments, the taxing jurisdiction may purchase the tax-deeded land by notifying the county of its intent to do so at any time within

one year after the period of redemption has expired but prior to the date upon which the tax-deeded land is sold to another person by the county. The amount for which the tax-deeded land may be purchased shall be the sum of the following:

1. All expenses incurred by the county to obtain marketable title to the property, except that the time of county employees and officers may not be included in those expenses. The county may establish a reasonable estimate of the average cost to obtain marketable title to property which it may use instead of determining the actual costs for any parcel sold by the county.

2. All amounts of unpaid general property taxes, special assessments, special charges and special taxes levied against the property sold, including interest and penalties imposed under s. 74.47 previously paid to taxing jurisdictions by the county.

3. Any withdrawal tax and any withdrawal fee due under s. 77.84 (3) (b).

4. Any unpaid special assessments or special charges that were not levied by the taxing jurisdiction purchasing the tax-deeded land. The county shall pay any amounts received under this subdivision to the taxing jurisdiction which levied the special assessment or special charge.

(3) **PREFERENCE TO FORMER OWNER TO REPURCHASE.** The county board may, at its option, by ordinance provide that in the sale of tax-deeded lands, the former owner who lost his or her title through delinquent tax collection enforcement procedure, or his or her heirs, may be given such preference in the right to purchase such lands as such ordinance shall provide. Such ordinance may provide that such sale be exempt from any or all provisions of s. 75.69 if the net proceeds from the sale to the former owner as determined under s. 75.36 (3) will be sufficient to pay all special assessments and special charges to which the property is subject, including interest imposed under s. 74.47, or if the county settles in full with the taxing jurisdiction for special assessments, as defined in s. 75.36 (1), to which the property is subject. Such ordinance shall not apply to tax-deeded lands which have been improved for or dedicated to a public use by the county subsequent to its acquisition thereof.

(4) **PURCHASE OF ADJACENT LANDS.** A county may purchase lands adjacent to tax-deeded lands in cases where the county board determines that such purchase will improve the salability of such tax-deeded lands or will create access to streets or highways for lands lacking such access.

(7) **LIABILITY PRECLUDED.** Absent fraud, no county is liable for acts or omissions associated with the sale of property under this section.

**History:** 1987 a. 27, 378; 1989 a. 104; 1993 a. 184; 1995 a. 201; 2003 a. 228.

**Cross-reference:** See s. 59.52 (6) for power of county to direct county clerk to sell or contract for sale and conveyance of land owned by county, whether acquired by tax deed or otherwise.

An ordinance under sub. (3) allowed a mortgagor to reacquire foreclosed property free of the mortgage lien. *Bank of Commerce v. Waukesha County*, 89 Wis. 2d 715, 279 N.W.2d 237 (1979).

**75.36 County acquisition and sale of property.** (1) **DEFINITION.** In this section, "special assessments" means unpaid installments of special assessments which were levied on real property prior to the date that the county acquired the real property by taking of a tax deed under this chapter. "Special assessments" includes amounts delinquent when the property became subject to a tax certificate, installments which became delinquent during the time the property is subject to a tax certificate and all installments payable after the date the county takes a tax deed under this chapter. "Special assessments" does not include unpaid amounts of special assessments deferred under s. 66.0715 (2), unless the taxing jurisdiction has acted under s. 66.0715 (2) (b).

(2) **ACQUISITION OF PROPERTY BY COUNTY, EFFECT ON LIABILITIES.** (a) If property is acquired by a county taking a tax deed under this chapter, the county is not required to pay any special charges or special assessments until the property is sold by the county. In the case of lands designated as forest croplands or managed forest lands, the county is not required to pay any taxes under

the dwelling was owned and occupied by the person who owns and occupies the building at the beginning of the deferral period. If the owner ceases to occupy the dwelling during the deferral period, the city treasurer shall foreclose the tax certificate on the dwelling as soon as practicable. A city adopting an ordinance under this section may require the dwelling owner to submit proof that the owner is eligible for a deferral under this section.

**History:** 1981 c. 322; 1987 a. 378.

**75.20 Limitations on certificates and issue of deeds; life of tax certificate liens. (1) TAX CERTIFICATES; WHEN VOID.** Tax certificates shall be void after 11 years following December 31 of the year in which such certificates were dated.

**(2) COUNTY TREASURER TO CANCEL ALL OUTLAWED TAXES.** No deed shall be issued or action commenced on any tax certificate whatever after it shall have become void by virtue of the statute of limitations provided in this section. The interest in the land represented by such certificate shall terminate upon the last date upon which a deed could have been issued thereon, or an action could have been commenced thereon if no summons and complaint was served and filed prior to such date. The county treasurer shall cancel all tax certificates which have become void by limitation and shall make an entry in the treasurer's record of unredeemed property subject to a tax certificate evidencing such cancellation.

**(3) CERTIFICATION OF CANCELLATION TO LOCAL TREASURER.** Whenever the county treasurer shall cancel a tax certificate which has become void by virtue of any statutes of limitation the county treasurer shall within 30 days thereafter in writing certify such cancellation to the proper town, city or village treasurer who shall make entry thereof in his or her records. Such cancellation need not be so certified in cases where the county has settled in full with the town, city or village.

**(4) STAY BY INJUNCTION NOT PART OF LIMITATION.** When the issuing of a deed on a tax certificate or certificates or the commencement of an action thereon shall be stayed by injunction, the time of the continuance of such injunction shall not be a part of the time hereinabove limited in this section as the life of a tax certificate.

**History:** 1975 c. 198; 1981 c. 390 s. 252; 1983 a. 189; 1987 a. 378.

**75.22 Validity; immaterial errors.** If after the issuance of a tax certificate or conveyance to the county of any lands subject to a tax certificate and within the time hereinafter prescribed it shall be discovered that the certificate was invalid, the county board shall make an order, briefly stating the reason therefor, directing that the certificate, as it applies to the affected lands, or deed be canceled. But no certificate or conveyance shall be deemed invalid within the meaning of this section by reason of any mistake or irregularity in any of the tax proceedings not affecting the groundwork of the tax; nor shall any county be liable to pay or refund any moneys by reason of any such mistake or irregularity.

**History:** 1987 a. 378.

A defect in the groundwork of the tax means a defect or irregularity that necessarily affects the principle of the tax and shows that it must be unjust and unequal or an illegality or irregularity that results in an inequitable burden. In order for a county to argue that it has the authority to set aside a tax deed under this section, it would be required to show the property was inequitably taxed resulting in the property owner paying more than its equitable share of the tax. *Jackson County v. DNR*, 2006 WI 96, 293 Wis. 2d 497, 717 N.W.2d 713, 04-2582.

**75.23 Canceled deeds, certificates of county clerk.** Whenever the county board shall order the cancellation of any tax deed, the county clerk shall furnish to the owner of the lands described in such deed, upon request therefor, a certificate in writing, executed under the clerk's hand and official seal, stating the fact of such cancellation, the date thereof, the description of the lands as to which such deed is canceled, the date of such deed, the date of the issuance of the tax certificate upon which such deed is based and the reason for such cancellation. Such certificate may be recorded in the office of the register of deeds of the county where the lands therein described are located, and such record shall be prima facie evidence of the facts therein stated and of the

cancellation of the tax deed therein mentioned as to the lands therein described.

**History:** 1987 a. 378.

**75.24 Limitation, claims under illegal deed or certificate.** Every action brought or claim presented against any county for the recovery of any sum of money on account of any defective or void tax certificate or tax deed made or issued by any such county shall be commenced or presented during the life of such tax certificates on which such deed was issued in accordance with the limitations as provided in s. 75.20; and whenever an action relating to the validity of a tax certificate or tax deed shall have been commenced within the time above limited and a final judgment shall not be rendered in such action until after the expiration of the time so limited, in such case an action may be commenced or claim presented on account of such certificate or deed within one year after final judgment declaring the same void.

**History:** 1987 a. 378.

**75.25 Lien of reassessed tax. (1)** If the county board, on making an order directing the refunding of money on account of the invalidity of any tax certificate or tax deed, shall be satisfied that the lands described in such certificate or deed were justly taxable for such tax or some portion thereof, it shall fix the amount of such tax justly chargeable thereon on each parcel thereof, and direct the same to be assessed in the next assessment of county taxes, with interest thereon at the same rate that would have applied had the tax been collected before the tax certificate was issued, or the land been redeemed from the time when such tax was due and payable to the end of the tax levy year in which such tax will be placed on the tax roll as a reassessment; and the county clerk, in the clerk's next apportionment of county taxes, shall charge the same as a special tax to the town, city or village in which such lands are situated, specifying the particular tract of land upon which the same are to be assessed and the amount chargeable to each parcel and the year when the original tax was assessed, and certify the same to the clerk of the proper town, city or village; and the clerk receiving such certificate shall enter the same on the tax roll accordingly. The lien of any tax reassessed as provided in this section shall attach to the land as of the date when such tax as originally levied became a lien and shall continue and constitute the lien of any tax certificate issued upon such lands for such reassessed tax. Such lien shall be superior to the lien of any tax certificate issued upon such land dated after the date of the lien of such reassessed tax but prior to the date of the tax certificate issued upon such land for such reassessed tax.

**(2)** Whenever the county board cancels a defective or void tax certificate or tax deed and such lands cannot be justly taxed for the item in question, the county clerk shall charge the respective town, city or village wherein such lands are situated in the clerk's next apportionment of county taxes with the amount of the refund, if any, occasioned by the invalidity of such tax certificate or tax deed. That charge shall be in the amount of the tax without interest.

**History:** 1987 a. 378.

**75.26 Limitation. (1) GRANTEE IN DEED. (a)** No action may be maintained by the grantee or anyone claiming under the grantee to recover the possession of any land or any interest in land which has been conveyed by deed for the nonpayment of taxes unless one of the following conditions is met:

1. The action is brought within 3 years next after the date of the execution of the deed.

2. The land demanded is, when conveyed, vacant and unoccupied and remains so, unless the action is brought within 3 years next after the date of the recording of the deed.

3. The grantee or those claiming under the grantee have been in actual, not constructive, possession of the land demanded for 3 successive years during the 5 years next after the recording of the deed.

**(b)** Notwithstanding par. (a), if the former owner takes possession of any land conveyed by deed for the nonpayment of taxes at

to the county, and the county treasurer shall settle for that share under s. 74.29. As part of that distribution, the taxation district treasurer shall retain for the taxation district and for each tax incremental district within the taxation district and each environmental remediation tax incremental district created by the taxation district its proportionate share of real property taxes. The taxation district treasurer shall also distribute to the county the proportionate share of real property taxes for each environmental remediation tax incremental district created by the county.

(c) Pay to each taxing jurisdiction within the district its proportionate share of taxes on improvements on leased land, except that the treasurer shall pay the state's proportionate share to the county. As part of that distribution, the taxation district treasurer shall allocate to each tax incremental district within the taxation district its proportionate share of taxes on improvements on leased land.

**(3) APPROVAL OF PAYMENT NOT REQUIRED.** The taxation district treasurer shall make payments required under subs. (1) and (2) whether or not the governing body of the taxation district has approved those payments. Following a payment required under subs. (1) and (2), the taxation district treasurer shall prepare and transmit a voucher for that payment to the governing body of the taxation district.

**History:** 1987 a. 378; 1991 a. 39; 1995 a. 408; 2001 a. 16; 2003 a. 33, 228; 2005 a. 241, 418; 2007 a. 97; 2009 a. 171; 2013 a. 54, 81; 2013 a. 151 s. 28; 2015 a. 191, 216, 358.

**74.31 Failure to settle timely.** If the taxation district treasurer or county treasurer does not settle as required under ss. 74.23 to 74.30:

**(1) INTEREST CHARGE.** The taxation district or county which has not settled shall pay 12 percent annual interest on the amount not timely paid to the taxing jurisdiction, including this state, to which money is due, calculated from the date settlement was required.

**(2) PENALTY.** The taxing jurisdiction, including this state, to which money is due may demand, in writing, payment from the taxation district or county which has not settled. If, within 3 days after receipt of a written demand, settlement is not made, the taxation district or county shall pay the taxing jurisdiction, including this state, making the demand a 5 percent penalty on the amount remaining unpaid.

**History:** 1987 a. 387; 1991 a. 39.

**74.315 Omitted property. (1) SUBMISSION.** No later than October 1 of each year, the taxation district clerk shall submit to the department of revenue, on a form prescribed by the department, a listing of all the omitted taxes under s. 70.44 to be included on the taxation district's next tax roll, if the total of all such taxes exceeds \$5,000.

**(2) EQUALIZED VALUATION.** After receiving the form under sub. (1), but no later than November 15, the department of revenue shall determine the amount of any change in the taxation district's equalized valuation that results from considering the valuation represented by the taxes described under sub. (1). The department's determination under this subsection is subject to review only under s. 227.53.

**(3) NOTICE AND DISTRIBUTION.** If the department of revenue determines under sub. (2) that the taxation district's equalized valuation changed as a result of considering the valuation represented by the taxes described under sub. (1), the department shall notify the taxation district and the taxation district shall distribute the resulting collections under ss. 74.23 (1) (a) 5., 74.25 (1) (a) 4m., and 74.30 (1) (dm).

**History:** 2009 a. 171.

## SUBCHAPTER V

### ADJUSTMENT

**74.33 Sharing and charging back of taxes due to palpable errors. (1) GROUNDS.** After the tax roll has been delivered to the treasurer of the taxation district under s. 74.03, the gov-

erning body of the taxation district may refund or rescind in whole or in part any general property tax shown in the tax roll, including agreed-upon interest, if:

(a) A clerical error has been made in the description of the property or in the computation of the tax.

(b) The assessment included real property improvements which did not exist on the date under s. 70.10 for making the assessment.

(c) The property is exempt by law from taxation, except as provided under sub. (2).

(d) The property is not located in the taxation district for which the tax roll was prepared.

(e) A double assessment has been made.

(f) An arithmetic, transpositional or similar error has occurred.

**(2) EXCEPTIONS.** The governing body of a taxation district may not refund or rescind any tax under this section if the alleged error may be appealed under s. 70.995 (8) (c) or if the alleged error is solely that the assessor placed a valuation on the property that is excessive.

**(3) CHARGING BACK AND SHARING TAXES.** If an error under sub. (1) has been discovered, the governing body of the taxation district shall proceed under s. 74.41.

**History:** 1987 a. 378; 1991 a. 39; 1993 a. 307; 1995 a. 408.

A potential error in classifying a mobile home as real, not personal, property was not a clerical error under sub. (1) (a), nor could it be considered to be the inclusion of a real property improvement that did not exist under sub. (1) (b), as the property did exist. *Ahrens v. Town of Fulton*, 2000 WI App 268, 240 Wis. 2d 124, 621 N.W.2d 643, 99-2466.

Affirmed on other grounds. 2002 WI 29, 251 Wis.2d 135, 641 N.W.2d 423, 99-2466.

**74.35 Recovery of unlawful taxes. (1) DEFINITIONS.** In this section "unlawful tax" means a general property tax with respect to which one or more errors specified in s. 74.33 (1) (a) to (f) were made. "Unlawful tax" does not include a tax in respect to which the alleged defect is solely that the assessor placed a valuation on the property that is excessive.

**(2) CLAIM AGAINST TAXATION DISTRICT. (a)** A person aggrieved by the levy and collection of an unlawful tax assessed against his or her property may file a claim to recover the unlawful tax against the taxation district which collected the tax.

(b) A claim filed under this section shall meet all of the following conditions:

1. Be in writing.

2. State the alleged circumstances giving rise to the claim, including the basis for the claim as specified in s. 74.33 (1) (a) to (e).

3. State as accurately as possible the amount of the claim.

4. Be signed by the claimant or his or her agent.

5. Be served on the clerk of the taxation district in the manner prescribed in s. 801.11 (4).

**(2m) EXCLUSIVE PROCEDURE.** A claim that property is exempt, other than a claim that property is exempt under s. 70.11 (21) or (27), may be made only in an action under this section. Such a claim may not be made by means of an action under s. 74.33 or an action for a declaratory judgment under s. 806.04.

**(3) ACTION ON CLAIM. (a)** In this subsection, to "disallow" a claim means either to deny the claim in whole or in part or to fail to take final action on the claim within 90 days after the claim is filed.

(b) The taxation district shall notify the claimant by certified or registered mail whether the claim is allowed or disallowed within 90 days after the claim is filed.

(c) If the governing body of the taxation district determines that an unlawful tax has been paid and that the claim for recovery of the unlawful tax has complied with all legal requirements, the governing body shall allow the claim. The taxation district treasurer shall pay the claim not later than 90 days after the claim is allowed.

(d) If the taxation district disallows the claim, the claimant may commence an action in circuit court to recover the amount of the

claim not allowed. The action shall be commenced within 90 days after the claimant receives notice by certified or registered mail that the claim is disallowed.

(4) **INTEREST.** The amount of a claim filed under sub. (2) or an action commenced under sub. (3) may include interest computed from the date of filing the claim against the taxation district, at the rate of 0.8 percent per month.

(5) **LIMITATIONS ON BRINGING CLAIMS.** (a) Except as provided under par. (b), a claim under this section shall be filed by January 31 of the year in which the tax is payable.

(b) A claim under this section for recovery of taxes paid to the wrong taxation district shall be filed within 2 years after the last date specified for timely payment of the tax under s. 74.11, 74.12 or 74.87.

(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.

(d) No claim may be made under this section based on the contention that the tax was unlawful because the property is exempt from taxation under s. 70.11 (21) or (27).

(6) **COMPENSATION FOR TAXATION DISTRICT.** If taxes are refunded under sub. (3), the governing body of the taxation district may proceed under s. 74.41.

**History:** 1987 a. 378; 1989 a. 104; 1991 a. 39; 1997 a. 237; 2007 a. 19.

This section only authorizes courts to determine whether a taxpayer is exempt from taxes already paid, not taxes that might be assessed in the future. Tax exempt status, once granted, is not automatic. It is subject to continuing review, a notion inconsistent with a declaration that property is exempt from future property taxes. Northwest Wisconsin Community Services Agency, Inc. v. City of Montreal, 2010 WI App 119, 328 Wis. 2d 760, 789 N.W.2d 392, 09-2568.

**74.37 Claim on excessive assessment. (1) DEFINITION.** In this section, a "claim for an excessive assessment" or an "action for an excessive assessment" means a claim or action, respectively, by an aggrieved person to recover that amount of general property tax imposed because the assessment of property was excessive.

(2) **CLAIM.** (a) A claim for an excessive assessment may be filed against the taxation district, or the county that has a county assessor system, which collected the tax.

(b) A claim filed under this section shall meet all of the following conditions:

1. Be in writing.
2. State the alleged circumstances giving rise to the claim.
3. State as accurately as possible the amount of the claim.
4. Be signed by the claimant or his or her agent.
5. Be served on the clerk of the taxation district, or the clerk of the county that has a county assessor system, in the manner prescribed in s. 801.11 (4) by January 31 of the year in which the tax based upon the contested assessment is payable.

(3) **ACTION ON CLAIM.** (a) In this subsection, to "disallow" a claim means either to deny the claim in whole or in part or to fail to take final action on the claim within 90 days after the claim is filed.

(b) The taxation district or county that has a county assessor system shall notify the claimant by certified or registered mail whether the claim is allowed or disallowed within 90 days after the claim is filed.

(c) If the governing body of the taxation district or county that has a county assessor system determines that a tax has been paid which was based on an excessive assessment, and that the claim for an excessive assessment has complied with all legal requirements, the governing body shall allow the claim. The taxation district or county treasurer shall pay the claim not later than 90 days after the claim is allowed.

(d) If the taxation district or county disallows the claim, the claimant may commence an action in circuit court to recover the amount of the claim not allowed. The action shall be commenced

within 90 days after the claimant receives notice by registered or certified mail that the claim is disallowed.

(4) **CONDITIONS.** (a) No claim or action for an excessive assessment may be brought under this section unless the procedures for objecting to assessments under s. 70.47, except under s. 70.47 (13), have been complied with. This paragraph does not apply if notice under s. 70.365 was not given.

(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.

(c) No claim or action for an excessive assessment may be brought or maintained under this section if the assessment of the property for the same year is contested under s. 70.47 (13) or 70.85. No assessment may be contested under s. 70.47 (13) or 70.85 if a claim is brought and maintained under this section based on the same assessment.

(5) **INTEREST.** The amount of a claim filed under sub. (2) or an action commenced under sub. (3) may include interest at the average annual discount rate determined by the last auction of 6-month U.S. treasury bills before the objection per day for the period of time between the time when the tax was due and the date that the claim was paid.

(7) **COMPENSATION.** If taxes are refunded under sub. (3), the governing body of the taxation district or county that has a county assessor system may proceed under s. 74.41.

**History:** 1987 a. 378; 1989 a. 104; 1993 a. 292; 1995 a. 408; 2007 a. 86; 2017 a. 207 s. 5; 2017 a. 358.

Sections 70.47 (13), 70.85, and 74.37 provide the exclusive method to challenge a municipality's bases for assessment of individual parcels. All require appeal to the board of review prior to court action. There is no alternative procedure to challenge an assessment's compliance with the uniformity clause. *Hermann v. Town of Delavan*, 215 Wis. 2d 370, 572 N.W.2d 855 (1998), 96-0171.

Claimants who never received notice of a changed assessment under s. 70.365 were exempt from the obligation to proceed before the board of review. However, they were required to meet the January 31 filing date in sub. (2), regardless of the fact that they never received the notice. *Reese v. City of Pewaukee*, 2002 WI App 67, 252 Wis. 2d 361, 642 N.W.2d 596, 01-0850.

While certiorari review of an assessment is limited to the review of the board of assessment's record, sub. (3) (d) allows the court to proceed without regard to any determination made at an earlier proceeding. The assessor's assessment is presumed correct only if the challenging party does not present significant contrary evidence. The court may hear new evidence and can enter a judgment if it is in the best interest of the parties. *Bloomer Housing Limited Partnership v. City of Bloomer*, 2002 WI App 252, 257 Wis. 2d 883, 653 N.W.2d 309, 01-3495.

After *Nankin*, the state-wide application of this section must prevail over any statutes that would defeat its implementation. Special rules help harmonize provisions that were once fully compatible with this section but, as a result of *Nankin*, conflict with this section. *U.S. Bank National Association v. City of Milwaukee*, 2003 WI App 220, 267 Wis. 2d 718, 672 N.W.2d 722, 03-0724.

When a taxpayer brings an action to recover excessive taxes under this section, the least favorable outcome for the taxpayer, and the best possible outcome for the taxation authority, is for the court to conclude there were no excessive taxes. The court cannot impose a greater tax burden than the one the taxation authority already agreed to when it accepted the taxpayer's payment. Although the court need not defer to the board of review's determination, and there is a statutory presumption that the assessor's determination is correct, when the board of review reduces the original assessment the court cannot reinstate the assessor's original assessment. *Trailwood Ventures, LLC v. Village of Kronenwetter*, 2009 WI App 18, 315 Wis. 2d 791, 762 N.W.2d 841, 08-1221.

When a city assessor correctly applies the Property Assessment Manual and statutes, and there is no significant evidence to the contrary, courts will reject a party's challenge to the assessment. *Allright Properties, Inc. v. City of Milwaukee*, 2009 WI App 46, 317 Wis. 2d 228, 767 N.W.2d 567, 08-0510.

Under s. 70.49 (2), each assessment "shall, in all actions and proceedings involving such values, be presumptive evidence that all such properties have been justly and equitably assessed." For a taxpayer to challenge the assessment, the taxpayer is required to present sufficient evidence to persuade the circuit court that the assessed value is probably not the fair market value of the property. A failure to provide that persuasive evidence would entitle the city to judgment based on the statutory presumption. *Bonstores Realty One, LLC v. City of Wauwatosa*, 2013 WI App 131, 351 Wis. 2d 439, 839 N.W.2d 893, 12-1754.

Under sub. (4), a taxpayer must challenge an assessment in front of the board of review before filing an excessive assessment claim, unless the taxing authority failed to provide a notice of assessment under circumstances where notice was required. Under s. 70.365, a notice of assessment is required only when the property's assessed value has changed. After reading these statutes, it should have been clear to the taxpayer that: 1) because it did not receive a notice of assessment, its property's assessed value for 2011 would be unchanged from 2010; and 2) if the taxpayer wanted to challenge the 2011 assessment, it needed to object before the board of review. These requirements did not violate the taxpayer's rights to due process. *Northbrook Wisconsin, LLC v. City of Niagara*, 2014 WI App 22, 352 Wis. 2d 657, 843 N.W.2d 851, 13-1322.

Under sub. (3) (b), a taxing district has 90 days after a claim for excessive assessment has been filed to either allow it or disallow it. If the taxing authority fails to act

notice of  
changed  
assessment  
(muni/taxation  
district must  
notify owner if  
assmt changes  
from prior year)

75  
Pay  
same  
by 0

30

(<http://www.co.kenosha.wi.us/>)

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# Kenosha County Property Information Web Portal



(<http://www.gcssoftware.co>)

Tax Year	Prop Type	Parcel Number	Municipality	Property Address	Billing Address
2018 <input type="button" value="v"/>	Real Estate	37-4-121-312-0272	104 - VILLAGE OF BRISTOL	11713 212TH AVE	JOHN F SIMMERS 11713 212TH AVE BRISTOL WI 53104-9680

**Tax Year Legend:**  = owes prior year taxes     = not assessed     = not taxed    Delinquent    Current

**Tax Summary**

Bill #: 404801944	Net Mill Rate:
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**Lottery Credits**

Claims	Date	Amount
1	11/01/2018	190.72

**Installments**

Due Date ▲	Amount
1/31/2019	1629.31
7/31/2019	754.42

**Payments**

No payments were found

**Key:** Property Type: RE - Real Estate, PP - Personal Property  
 Payment Type: A - Adjustment, R - Redemption, T - Current Tax, Q - Quit Claim, D - Write Off Deeded, B - Write Off Bankruptcy

**Details**

Description	Amount	Paid	Due
Gross Tax	1733.58	-	-
School Credit	146.20	-	-
<input checked="" type="checkbox"/> Total	1587.38	-	-
First Dollar Credit	78.53	-	-
Lottery Credit	190.72	-	-
<b>Net Tax</b>	<b>1318.13</b>	<b>0.00</b>	<b>1318.13</b>
Special Assessments	0.00	0.00	0.00
<input checked="" type="checkbox"/> Special Charges	190.80	0.00	190.80
<input checked="" type="checkbox"/> Delinquent Utility	874.80	0.00	874.80
PrivateForest Crop	0.00	0.00	0.00
Woodland Tax Law	0.00	0.00	0.00
Managed Forest Land	0.00	0.00	0.00
Other Charges	0.00	0.00	0.00
Interest	-	0.00	190.70
Penalty	-	0.00	95.35
<b>TOTAL</b>	<b>2383.73</b>	<b>0.00</b>	<b>2669.78</b>

Interest/Penalty Date **09/27/2019**

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Tax History

Year	Amount	Interest Paid	Penalties Paid	Paid	Last Paid	Amount Due	Status
2018	2383.73	0.00	0.00	0.00	N/A	2669.76	No Payment Collected
2017	2354.56	0.00	0.00	0.00	N/A	3060.93	No Payment Collected
2016	1450.06	0.00	0.00	0.00	N/A	2146.09	No Payment Collected
2015	2455.92	0.00	0.00	0.00	N/A	3997.29	No Payment Collected
2014	2294.87	826.16	413.07	3534.10	1/10/2018	0.00	Paid
2013	2358.95	660.50	330.27	3349.72	5/16/2016	0.00	Paid
<b>TOTAL</b>	<b>13298.09</b>	<b>1486.66</b>	<b>743.34</b>	<b>6883.82</b>		<b>11874.09</b>	

<http://www.gcssoftware.com>

\* The totals shown here represent only the items in the grid. For more detailed information see 'Tax Balance Report'.