



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2611/1
EVM/EKL/KP:klm

2021 ASSEMBLY BILL 247

April 8, 2021 - Introduced by Representatives VORPAGEL, KATSMA, TITTL, KUGLITSCH, KURTZ, RAMTHUN, KNODL, VRUWINK, ZIMMERMAN, DOYLE, HORLACHER, MOSES and SKOWRONSKI, cosponsored by Senators FEYEN, FELZKOWSKI, MARKLEIN and WANGGAARD. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 70.511 (2) (a), 74.35 (5) (c) and 74.37 (4) (b); and **to create**
2 101.643 and 893.38 of the statutes; **relating to:** extension of certain approvals
3 and occupancy permits under the uniform dwelling code, extension of certain
4 approvals that are subject to administrative, judicial, or appellate proceedings,
5 waiver of interest and penalties on late 2021 property tax payments, and waiver
6 of the timely payment requirement for filing certain property tax claims.

Analysis by the Legislative Reference Bureau

This bill extends the term or duration of certain approvals that are the subject of administrative, judicial, or appellate proceedings that may result in the invalidation, reconsideration, or modification of the approval. The terms or durations are extended by an amount of time equal to 36 months plus the duration of the administrative, judicial, or appellate proceeding to which the covered approval is subject. The approvals covered under the bill are, with certain exceptions, 1) unexpired permits or approvals for construction projects issued by the Department of Safety and Professional Services, the Department of Natural Resources, the Department of Transportation, a political subdivision, or a special purpose district and 2) plats or certified survey map approvals. The extension is exercised by the holder of the approval notifying the governmental unit that issued the approval of the person's decision to exercise the extension not less than 90 days before the expiration of the unextended term or duration of the approval. In general, the laws,

ASSEMBLY BILL 247

regulations, ordinances, rules, or other properly adopted requirements that were in effect at the time the approval was issued continue to apply to the construction project, plat, or certified survey map during the period of extension.

The bill also specifies that a dwelling that is occupied before undergoing all inspections for compliance with the uniform dwelling code may be granted an occupancy permit if the dwelling later passes a uniform dwelling code final inspection. Also, if an occupancy permit for a dwelling is granted after it is occupied, any missed inspection of the dwelling may not be listed as a finding on the occupancy permit.

Current rules promulgated by the Department of Safety and Professional Services generally allow a dwelling to be occupied without a uniform dwelling code final inspection if the inspection is not completed by DSPS or a municipality within five business days of an applicant's notification.

The bill also allows municipalities to waive interest and penalties on late installment payments of property taxes payable in 2021. Under current law, a late installment payment of property taxes is subject to interest and penalties, with the interest accruing from February 1 of the year in which the taxes are due. For property taxes payable in 2020, if an installment payment due after April 1, 2020, is late, current law allows a municipality to temporarily waive the interest and penalties in cases of hardship if the entire amount due is paid no later than October 1, 2020, and both the county and municipality adopt resolutions authorizing the waiver.

Under the bill, for an installment payment due after January 1, 2021, that is late, a municipality may waive the interest and penalties if the municipality makes a general or case-by-case finding of hardship and the total amount due is paid no later than October 1, 2021. A municipality may waive the interest and penalties only if the county first adopts a resolution authorizing the waiver and establishing criteria for determining hardship and the municipality then adopts a similar resolution. Under the bill, interest and penalties will accrue from October 1, 2021, for any property taxes payable in 2021 that are delinquent after that date. The bill requires a county that adopts a waiver resolution to settle the taxes, interest, and penalties collected before August 1, 2021, on August 20, 2021, and to settle the remaining unpaid taxes, interest, and penalties on September 20, 2021. The August 20, 2021, settlement must be distributed proportionally to the underlying taxing jurisdictions.

The bill also modifies the provision in current law that generally requires a person to have paid his or her property taxes on time in order to file a claim to recover the unlawful imposition of property taxes, a claim for the excessive assessment of property taxes, or a claim to recover property taxes paid in protest due to an outstanding contested assessment. Current law provides an exception from this requirement for taxes due and payable in 2020 if paid by October 1, 2020, or a later applicable installment date. The bill creates a similar exception for property taxes due and payable in 2021 so that the timely payment requirement does not apply to these taxes if paid by October 1, 2021, or a later applicable installment date.

ASSEMBLY BILL 247

For further information see the state and 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.** 70.511 (2) (a) of the statutes is amended to read:

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

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

16 74.35 (5) (c) No claim may be filed or maintained under this section unless the
17 tax for which the claim is filed, or any authorized installment payment of the tax, is
18 timely paid under s. 74.11, 74.12 or 74.87. This paragraph does not apply to taxes
19 due and payable in 2020 if paid by October 1, 2020, or by any installment date for
20 which taxes are due after October 1, 2020, nor to taxes due and payable in 2021 if paid

ASSEMBLY BILL 247**SECTION 2**

1 by October 1, 2021, or by any installment date for which taxes are due after October
2 1, 2021.

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

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

11 **SECTION 4.** 101.643 of the statutes is created to read:

12 **101.643 Occupancy before inspection; permit. (1)** A dwelling unit that
13 is occupied in accordance with local ordinances before undergoing all inspections for
14 compliance with the one- and 2-family dwelling code may be granted an occupancy
15 permit if the dwelling unit later passes a final inspection for compliance with the
16 one- and 2-family dwelling code.

17 **(2)** If an occupancy permit for a dwelling unit is granted after the dwelling unit
18 is occupied as described in sub. (1), any missed inspection of the dwelling unit may
19 not be listed as a finding on the occupancy permit.

20 **SECTION 5.** 893.38 of the statutes is created to read:

21 **893.38 Extension of certain approvals. (1) DEFINITIONS.** In this section:

22 (a) "Challenged permit" means a permit or other approval to which all of the
23 following apply:

24 1. The permit or other approval authorizes a construction project or a portion
25 of a construction project.

ASSEMBLY BILL 247

1 2. The application for the permit or other approval includes a description of the
2 construction project.

3 3. The permit or other approval was issued by a governmental unit.

4 4. The permit or other approval has a finite term or duration and has not
5 expired.

6 5. The permit or other approval is the subject of administrative, judicial, or
7 appellate proceedings that may result in the invalidation, reconsideration, or
8 modification of the permit or approval.

9 (b) “Challenged plat or survey” means a plat or certified survey map approval
10 that is the subject of administrative, judicial, or appellate proceedings that may
11 result in the invalidation, reconsideration, or modification of the approval.

12 (c) “Construction project” means organized improvements to real property that
13 include, at a minimum, the construction or redevelopment of buildings.

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

15 (e) “Governmental unit” means the department of safety and professional
16 services, the department of natural resources, the department of transportation, a
17 city, a village, a town, a county, or a special purpose district.

18 **(2) EXERCISE OF EXTENSION.** A person who has received a covered approval shall
19 obtain a term or duration extension by notifying the governmental unit that issued
20 the covered approval of the person’s decision to exercise the extension not less than
21 90 days before the expiration of the unextended term or duration of the covered
22 approval. A notification under this subsection shall be in writing and shall specify
23 the covered approval extended.

24 **(3) TERM OF EXTENSION.** The term or duration of a covered approval extended
25 under sub. (2) is extended by an amount of time equal to 36 months plus the duration

ASSEMBLY BILL 247

1 of the administrative, judicial, or appellate proceeding to which the covered approval
2 is subject. For purposes of calculating the duration of an administrative, judicial, or
3 appellate proceeding under this subsection, the proceeding begins on the date of the
4 initial filing leading to the commencement of the proceeding and ends on the date of
5 the final order disposing of the proceeding.

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

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

16 (6) EXCEPTIONS. This section does not apply to any of the following:

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

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

SECTION 6. Nonstatutory provisions.

23 (1) INTEREST AND PENALTIES ON LATE PROPERTY TAX PAYMENTS. Notwithstanding
24 ss. 74.11, 74.12, and 74.87, for property taxes payable in 2021, after making a general
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ASSEMBLY BILL 247

1 or case-by-case finding of hardship, a taxation district may provide that an
2 installment payment that is due and payable after January 1, 2021, and is received
3 after its due date shall not accrue interest or penalties if the total amount due and
4 payable in 2021 is paid on or before October 1, 2021. Interest and penalties shall
5 accrue from October 1, 2021, for any property taxes payable in 2021 that are
6 delinquent after October 1, 2021. A taxation district may not waive interest and
7 penalties as provided in this subsection unless the county board of the county where
8 the taxation district is located first adopts a resolution authorizing such waiver and
9 establishing criteria for determining hardship, and the taxation district
10 subsequently adopts a similar resolution. A county that has adopted a resolution
11 authorizing the waiver of interest and penalties under this subsection shall settle
12 any taxes, interest, and penalties collected on or before July 31, 2021, on August 20,
13 2021, as provided under s. 74.29 (1), and settle the remaining unpaid taxes, interest,
14 and penalties on September 20, 2021. The August 20, 2021, settlement shall be
15 distributed proportionally to the underlying taxing jurisdictions.

SECTION 7. Initial applicability.

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17 (1) The treatment of s. 893.38 first applies to a permit or other approval or plat
18 or certified survey map approval for which the term has not expired and against
19 which administrative, judicial or appellate proceedings challenging the permit or
20 other approval or plat or survey map approval are pending on the effective date of
21 this subsection.

22 (END)