



GAE MAGNAFICI

STATE REPRESENTATIVE • 28th ASSEMBLY DISTRICT

TO: Assembly Committee on Insurance
FROM: Representative Gae Magnafici
DATE: August 17th, 2021
SUBJECT: Written Testimony in Support of AB 483

Chairman Steffen and members of the Assembly Committee on Insurance. Thank you for holding a hearing on Assembly Bill 483, which creates a more common-sense process for ordering the raze of a building.

Under current law, local governments can issue raze orders for buildings where the cost of repair exceeds 50% of the assessed value of the building. AB 483 ensures all measures are considered before a municipality issues a raze order, and increases the cost of repair to raze to 70% of insured value.

AB 483 shifts the decision to raze from assessed value to insured value for two common-sense reasons. First, assessed value is used for tax purposes and has no bearing on the replacement value of a dwelling. That means houses are being razed when they could be repaired. Second, the insured expect to be made whole after a disaster. Razing a house when it makes more sense for the insurer to pay for repairs creates undue hardship on the homeowner.

For some low valued property, the cost of razing a building can be more than the cost to repair. This can be an unexpected cost for insurers, especially in rural communities where raze orders are not frequent and property value is not high. One unnecessary raze order can raise the cost to be insured if the insurance pool is small, as it often is in rural communities.

Lastly, this bill changes the process for how a raze order is issued by a municipality. Before issuing a raze order a municipality must inform the insurer of the intent. Currently, insurers do not have to be informed when a building is being razed, and it is often left up to the policyholder to keep the insurer in the loop.

Thank you, and I'm happy to take any questions.



ROB STAFSHOLT

STATE SENATOR • 10th SENATE DISTRICT

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P.O. Box 7882
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TO: Assembly Committee on Insurance
FROM: Senator Rob Stafsholt
DATE: August 17, 2021
SUBJECT: Testimony in Favor of Assembly Bill 483

Thank you, Chairman Steffen and members of the Assembly Committee on Insurance for allowing me to submit testimony in favor of Assembly Bill 483.

There are many hurdles individuals and families can face when living in older homes in rural and urban Wisconsin. Unfortunately, for a very small number of citizens, dilapidated homes with unsafe living conditions can become a blight on neighborhoods. For a small number of homes, natural disasters, such as fires, severe storms, and tornados can leave them damaged, or even worse, destroyed. In some instances, these homes can result in a total loss to the homeowner. However, there are situations where repairs are a more cost-effective manner to return a dwelling to a safe living environment for a family. In cases like this, raze orders can lead to higher insurance premiums and deductibles for homeowners across the state.

This legislation reduces the level of government involvement with a homeowner and their insurance agent in a claim situation. Under current law, municipalities may issue a raze order on a building that is unfit for human habitation and unreasonable to repair. Current law creates a presumption that repair is unreasonable if the cost of repair exceeds 50% of the equalized value of the home. If a raze order is issued and, if the owner does not comply with the order within the prescribed time, the municipality may raze the building. The cost of the razing may be charged against the real estate upon which the building is location.

This legislation creates a separate process for owner-occupied homes that suffer a loss covered by the insurance policy. In these situations, before issuing a raze order, the municipality would have to provide notice to the owner of the dwelling, conduct an on-site inspection, consider materials establishing the damage and cost of repairs, and conclude it is not reasonable to repair the building. Additionally under the bill, repairs are considered reasonable if they are less than 70% of the insurance policy coverage limits.

In what may seem like a complicated bill, we are simply working to keep insurance premiums low in urban and rural communities where there may be large discrepancies between equalized assessed value and replacement value costs.

Thank you, members. I ask for your support and would be happy to answer any questions.



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To: Assembly Committee on Insurance

From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities

Date: August 17, 2021

Re: AB 483, Limiting Municipal Raze Order Powers

Good afternoon Chairman Steffen, Vice Chair Petersen and members of the Assembly Insurance Committee. Thank you for holding this hearing today and allowing me the opportunity to testify on AB 483. The League of Wisconsin Municipalities opposes AB 483, limiting the authority of a municipality to order the razing of certain insured dwellings, as it is currently drafted. We acknowledge the relatively narrow focus of the bill, and we appreciate that the proponents of the bill reached out to us to discuss the goals of the legislation prior to it being introduced. We also appreciate the time the Senate committee spent listening to testimony and the Senator Stafsholt's willingness to listen to our concerns after the hearing. However, we remain concerned about the unintended consequences of limiting a municipality's ability to issue raze orders. Communities exercise these powers relatively rarely and only for the public health, safety, and general welfare of their residents. We are not aware of widespread abuse of municipal raze order powers. Indeed, municipalities typically provide additional latitude and flexibility to afford owners time to repair.

More specifically we have the following concerns about the bill:

1. The bill does not protect a municipality from the possibility that an insured abandons the property without repair. No requirement exists that an insured use claims proceeds to repair a building. The money could be used to purchase a new building instead. In that scenario, the City is still subject to the more restrictive conditions but if the cost of repairs is, for example 50% of the policy limit, the City would not be able to obtain an enforceable raze order to eliminate the hazard.
2. The bill requires that a municipality, among other things, conduct an on-site inspection to assess the extent of damage. There is no requirement that owners consent to such inspection. This means a municipality would have to secure a special inspection warrant, which is another delay to the process.
3. When buildings are damaged by fire and rendered uninhabitable, municipalities are often not provided a new mailing address for communicating with the owner. As such, ascertaining

consent to inspect or to request information regarding a repair plan, is difficult.

4. The bill does not include a time limit by which an insurance company must commence repairs. Various safety issues may result in delayed renovations or demolition.
5. Under the bill, an insurance company could certify that the claim “may” qualify as covered damage subjecting the municipality to the new restrictions. After that certification, the insurance company is under no obligation to continue updating the municipality as to whether it concludes the damage is in fact covered. Insurance companies will undoubtedly submit this certification as a routine practice upon notice of damage.
6. If there is a substantial disagreement over repair costs between the insurer and the municipality, municipal raze orders are more likely to be challenged, further delaying remediation.
7. A municipality must accept and consider materials that establish the extent of damage or the reasonable cost of repairs from those who are not credentialed to provide information on building repair, structural and nonstructural damages, or cost of repair.
8. The calculation for repairs is “70% of the policy limit” but the bill does not require that the insurance company inform the municipality what the policy limit is in their certification. The certification need only warn that coverage might exist. How will a municipality determine whether repairs are presumptively unreasonable if they lack access to the necessary information with which to make the calculation?

After working in the Legislature for ten years, I fully understand the frustration when interest groups provide a detailed list of problems but do not attempt to offer any solutions. To that extent, the League has prepared a list of potential amendments that we would like to offer. This list has been shared with Senator Stafsholt after the Senate hearing. We would welcome any questions and would like to continue working with both authors on a path forward.

Raze Order SB 434 – Amendment Request

Information Requirements – Modify the proposed s. 66.0413(5)(b) to read:

No later than 10 days after real property has incurred damage, an insurer shall provide a certificate to a governing body, building inspector, or other designated officer of a municipality stating all of the following:

- That the dwelling is insured, and a claim may be or has been filed
- Policy limit of the residential structure at issue
- Date of the damage
- Insurance company contact person
- Insurance company’s process for evaluating a claim and the anticipated date of a claims decision
- When a claims decision is made and what the decision is regarding the structure
- Whether the building will be rehabilitated or demolished and a time schedule
- Whether the insurance company will pay for demolition or pay the municipality to oversee the process

Reasonableness to Repair – If the legislation moves in the direction of using a different valuation rather than assessed value, we request the following:

- Whatever valuation is selected, the information needs to be provided to municipalities in a timely fashion (10 days recommended above) or be readily and publicly available.
- If market value is utilized, we recommend statutorily defining how that value is determined so all municipalities are conducting the same analysis.
- If insurance policy limits are retained, then the bill should be amended to require prompt disclosure of the policy limits once a loss occurs (see information requirements above).

Emergency Authority – The bill seems to apply to any residential insured dwelling and not just those that suffer instant and excessive damage. In this provision we would ask for two modifications.

- In cases where damage is instant or natural disaster, emergency raze order authority for health and safety must be maintained.
- In addition, in the absence of an occurrence of instant and excessive damage, municipalities need to retain raze order authority for cases of extreme deterioration as communities continue to eliminate blight, protect public safety, health, and general welfare, and revitalize their communities.

Abandonment – There is no guarantee, even with a settlement, that a dangerous property is removed. The bill should be amended to allow municipalities to initiate a raze order based on the existing reasonableness-to-repair calculation in cases where demolition has not occurred despite a claim settlement or where reconstruction has stalled for two years or more similar to the existing s. 66.0413(1)(b)2.

We would also request that insurance claims settled under this new statutory provision include funds set aside and paid to the municipality to cover demolition and debris removal if an owner vacates.

Security – Require insurance companies to secure the site of a damaged structure within 48 hours or to compensate municipalities for the expenses incurred for site security.

Credentialed Information – In s. 66.0413(5)(c)2 require that any information provided by a person entitled notice must be a credentialed or certified individual with experience and knowledge in the construction trades including engineering, structural damage, assessment, or inspection.

Also require that this information must be submitted within 10 days after the provision of notice.

We urge the committee to vote against recommending passage of AB 483 as introduced and seek amendments to remedy the issues outlined above. Thank you for considering our concerns.

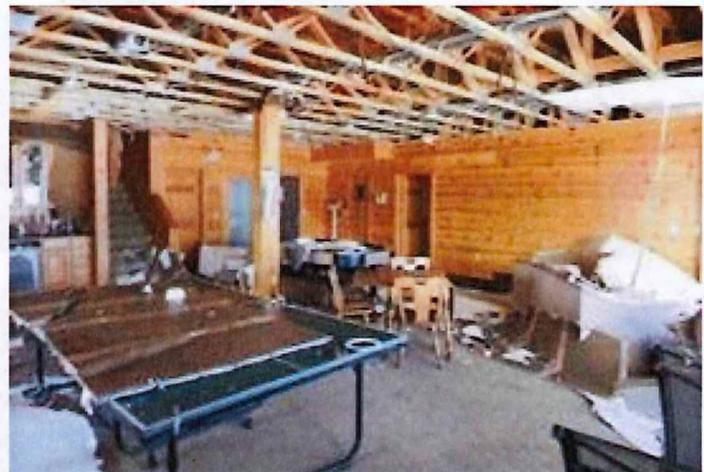


American Family Mutual Insurance Company, S.I. Wisconsin Assembly Bill 483

EXAMPLE 1:

Large water loss with damages to finished flooring, wall/ceilings, no structural damages to ceiling joints, foundation, std walls or roof. Some areas were not directly impacted at all.

Insured Dwelling Policy Limit	= \$600,000
Estimated Repair Cost	= \$236,000
Assessed Value – Dwelling	= \$299,000
Total Dwelling payments	= \$768,000





American Family Mutual Insurance Company, S.I. Wisconsin Assembly Bill 483

EXAMPLE 2:

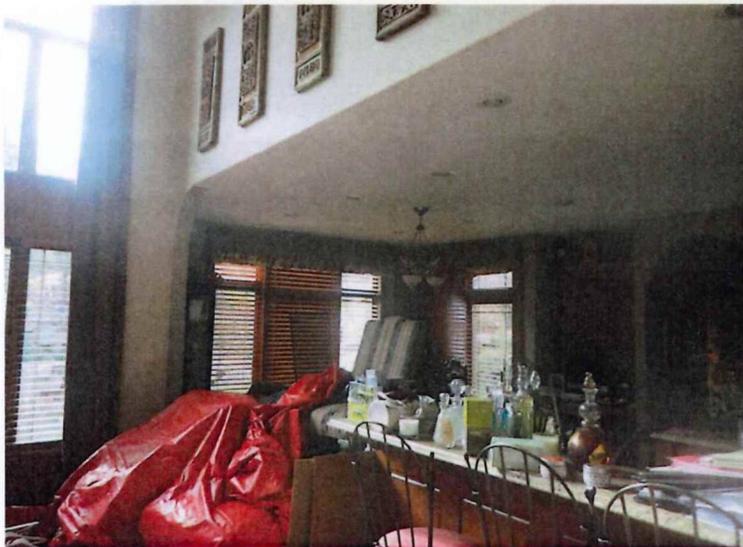
Brookfield, WI home suffered from a fire loss in the attic that caused significant damage.

Insured Dwelling Policy Limit = \$1,463,700.00

Estimated Repair Cost = \$750,000.00

Assessed Value - Dwelling = \$784,200.00

Total Dwelling Payments = \$1,677,059.34



EXAMPLE 3:

Milwaukee home that is constructed of older building materials and methods (plaster, balloon framing), but the framing is mostly intact. The entire house was impacted by fire, smoke and water. We anticipate the repair cost will exceed the 70% insured threshold for this home, and a raze order will likely be issued.

Insured Dwelling Policy Limit	= \$233,200
Zillow Market Value	= \$111,200
Assessed Value - Dwelling	= \$73,100
Estimated Repair Cost	= \$200,000 (70% threshold = \$163,200)





Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Kimberly Montgomery
Director of Intergovernmental Relations

City of Milwaukee Testimony on AB 483, Relating to: municipal raze orders for certain insured dwellings.

Chairman Steffen and members of the Assembly Insurance Committee,

My name is Jim Bohl, and I am with the Intergovernmental Relations Division of the City of Milwaukee (City). I appreciate the opportunity to testify today on AB 483.

The City believes AB 483, as currently drafted, is problematic in a number of ways. First off, the bill would create an unnecessary and burdensome time delay on the City's ability to issue a raze order by forcing a 60-day waiting period that does not currently exist. Further, not only does the bill create delays with assessing information for insured properties, but it carries the unintended consequence of creating potential interruptions in carrying out raze orders for uninsured properties as municipalities must wait for information to determine if subject properties are insured. For communities like Milwaukee with a large number of non-owner occupied properties, this is problematic. The undue time lag established by this bill for both insured and uninsured properties has the potential to create dangerous safety situations in densely populated neighborhoods teeming with children as the City is forced to wait out what could be prolonged information for insurance on dilapidated structures.

These aforementioned problems could be mitigated by limiting the insurance notice requirements to a maximum of 10-calendar days after the determination of damage is made and requiring insurers to provide adequate details requiring contact, claims and intention. Timeliness should not be an issue. Insurance companies do have a problem in providing quick turnaround responses when dealing with insurance claims or repairs surrounding auto accidents. Dealing with dilapidated homes that pose a danger to children should not be treated differently.

Additionally, timely measures for insurance companies to secure at risk properties should be established or municipalities should be compensated for efforts to secure properties given the increased risk of exposure being established by the time delays being created by this bill.

Two, there remains uncertainty over whether AB 483 allows emergency raze orders for structures in imminent danger or at risk of collapse to take place. Either explicit emergency order language should be codified under this carve out section being established or a formal legal opinion from Leg Council should be entered into the record guaranteeing municipalities this existing right.

Three, there are issues in this bill surrounding the lack of qualifications established by contractors that may be hired by insurance companies and in language that makes discretionary, municipal consideration of alternative materials submitted by insurers. Municipal inspectors are certified by the State and have expertise surrounding structural issues, engineering, and construction. Because of this, they will know if proposed materials and plans are safe. This bill should not only require that contractors used by insurers be credentialed, but that municipalities retain the final determination over submitted materials and plans for repair.

Lastly, the City would offer that it believes any current issues surrounding use of 50% of assessable value for determining raze orders could be improved without the added burdens imposed by this bill by simply moving to a uniform criteria which uses a market rate provision for properties.

Thank you for the time afforded me this afternoon. I stand ready to answer any questions you may have.



City of Racine, Wisconsin

trades. We ask you to consider including a requirement that only credentialed inspectors or tradespeople may prepare information that the insurers submit to the municipality.

The bill creates additional administrative burdens on municipalities, including additional costs for investigating and mailing notices to insurers, and time in having to review materials submitted by those insurers. This bill creates extra work and is going to be burdensome, especially to smaller municipalities and towns that share or outsource their building inspection services.

Finally, the bill interferes with the private contract between property owners and insurance companies. It transfers to insurers, and takes away from property owners, the discretion on how a property is handled when the property owner's home is damaged. This bill is a way for the insurance industry to still sell highly-valued policies, which will result in an increase in premiums, and to also get around the requirement of the Valued Policy Law, which requires payout of the full policy value when there is a total loss. This is not necessarily a burden to municipalities, but it markedly reduces the rights of Wisconsin's citizens, and creates an end run around the Valued Policy Law, Wis. Stat. § 632.05(2).

I appreciate the opportunity to speak today, and I am happy to answer any questions you may have.

Sincerely,

s/Nicole F. Larsen
Nicole F. Larsen
Deputy City Attorney
City of Racine, Wisconsin

cc: Rep. Kevin Petersen
Rep. Cindi Duchow
Rep. Ron Tusler
Rep. Robert Brooks
Rep. Travis Tranel
Rep. Warren Petryk
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City of Racine, Wisconsin

August 17, 2021

Rep. David Steffen, Chair
Committee on Insurance
State Capitol
Madison, WI 53708

RE: AB 483 (companion bill to SB434)
Relating to municipal raze orders for certain insured dwellings

Dear Chairman Steffen and Committee Members,

My name is Nicole Larsen, and I am the deputy city attorney for the City of Racine. I appreciate the opportunity speak on Assembly Bill 483, relating to the issuance of raze orders for insured dwellings in the State of Wisconsin. I am authorized to speak and share my thoughts with you on behalf of the administration of the City of Racine.

The primary reason the City of Racine opposes this bill is that it puts Wisconsin's citizens in danger. It severely curtails municipal authorities' power to regulate dangerous buildings. It builds in a 60-day waiting period before a municipality can issue a raze order, even if that building is fire damaged or only half of the building is standing. There is NO provision for emergency situations, and cities and towns' hands will be tied as the buildings sit there. There must be a provision excepting out buildings damaged in sudden or emergency situations (fire, tornado, flood, etc.). Additionally or alternatively, the 60-day period must be reduced to a reasonable number such as 10 or 15 days to allow municipalities to act in a timely manner and not prolong the existence of dangerous buildings in Wisconsin's communities.

Another reason the City is opposed is that the bill holds cities and towns to a standard that is unknown to municipalities. Insurance policies are private contracts between the insured and their insurance company, and local governments do not have access to them. The language mandates that the building inspector meet a threshold of 70% of the insurance policy value, but, 1) insurance policies are not public documents accessible to building inspectors, and 2) there is no requirement that an insurer tell the municipality the amount of the policy limit! The insurers can easily and should be required to record the policies with the register of deeds, where all encumbrances and documents related to properties are recorded. At the very minimum, the bill must mandate the insurer provide this information to the municipality on its first communication to the municipality.

Third, there are no requirements that materials insurers submit to building inspectors must be prepared by anyone with any credentials or qualifications in building inspection or building

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