



## 1997 ASSEMBLY BILL 671

December 23, 1997 - Introduced by Representatives GREEN, ALBERS, MUSSER and HASENOHRL, cosponsored by Senators HUELSMAN, ROSENZWEIG and DARLING. Referred to Committee on Judiciary.

1     **AN ACT to amend** 66.05 (8) (b) 1., 66.411, 102.23 (1) (c), 102.835 (14), 108.225 (14),  
2             125.12 (2) (d), 801.09 (2) (a), 801.09 (2) (b), 801.095 (1), 801.095 (2), 801.095 (3),  
3             801.095 (4), 802.06 (1), 802.06 (6) and 802.09 (1) of the statutes; **relating to:**  
4             increasing the time period to serve a responsive pleading.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who is served with a summons and complaint in a civil action act has 20 days after service of the complaint to respond with an answer to the complaint. A party served with a pleading that states a cross-claim or counterclaim has 20 days to respond to that pleading. If the defendant is the state or an official, employe or agent of the state, in certain actions the time to answer is extended to 45 days. If the summons is served by publication, the time to respond is 40 days. Current law also allows a party to move the court to strike material from any pleading if that material is redundant, immaterial, impertinent, scandalous or includes indecent matter. That motion must be made within 20 days after service of the pleading.

Currently, a building owner has 20 days to reply to a petition filed with the circuit court asking that a building be declared a public nuisance because the building is dangerous, defective or unsafe. A redevelopment corporation is given up to 20 days by the court under current law to reply to a petition filed in circuit court asking the court to require the redevelopment corporation to comply with the redevelopment plan. Currently, the labor and industry review commission has 20 days to serve an answer to a complaint filed in circuit court asking that the decision

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of the commission regarding an award of worker's compensation be overturned. Under current law, a person subject to a levy against his or her property for failing to make a payment for worker's compensation or unemployment compensation has 20 days after service of the levy to file an answer to the levy. Under current law, when a person files a complaint seeking judicial review of a municipality's decision to grant, fail to grant, suspend or revoke a license, the municipal governing body has 20 days to file an answer to that complaint.

This bill changes all of those response times to 45 days. This change does not apply to garnishment actions.

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

1           **SECTION 1.** 66.05 (8) (b) 1. of the statutes is amended to read:

2           66.05 (8) (b) 1. If an owner fails to remedy or improve the defect in accordance  
3 with the written notice furnished by the building inspector or other designated  
4 officer under par. (am) within the 30-day period specified in the written notice, the  
5 building inspector or other designated officer shall apply to the circuit court of the  
6 county in which the building is located for an order determining that the building  
7 constitutes a public nuisance. As a part of the application for such order from the  
8 circuit court the building inspector or other designated officer shall file a verified  
9 petition which recites the giving of such written notice, the defect or defects in such  
10 building, the owner's failure to comply with the notice and such other pertinent facts  
11 as may be related thereto. A copy of the petition shall be served upon the owner of  
12 record or the owner's agent if an agent is in charge of the building and upon the holder  
13 of any encumbrance of record under sub. (1m) (a) and the owner shall have ~~20~~ 45 days  
14 following service upon the owner in which to reply to such petition. Upon application  
15 by the building inspector or other designated officer the circuit court shall set  
16 promptly the petition for hearing. Testimony shall be taken by the circuit court with  
17 respect to the allegations of the petition and denials contained in the verified answer.

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1 If the circuit court after hearing the evidence with respect to the petition and the  
2 answer determines that the building constitutes a public nuisance, the court shall  
3 issue promptly an order directing the owner of the building to remedy the defect and  
4 to make such repairs and alterations as may be required. The court shall set a  
5 reasonable period of time in which the defect shall be remedied and the repairs or  
6 alterations completed. A copy of the order shall be served upon the owner as provided  
7 in sub. (1m) (a). The order of the circuit court shall state in the alternative that if  
8 the order of the court is not complied with within the time fixed by the court, the court  
9 will appoint a receiver or authorize the building inspector or other designated officer  
10 to proceed to raze and remove the building and restore the site to a dust-free and  
11 erosion-free condition under par. (bg).

12 **SECTION 2.** 66.411 of the statutes is amended to read:

13 **66.411 Urban redevelopment; enforcement of duties.** Whenever a  
14 redevelopment corporation shall not have substantially complied with the  
15 development plan within the time limits for the completion of each stage thereof as  
16 therein stated, reasonable delays caused by unforeseen difficulties excepted, or shall  
17 do, permit to be done or fail or omit to do anything contrary to or required of it, as  
18 the case may be, by ss. 66.405 to 66.425, or shall be about so to do, permit to be done  
19 or fail or omit to have done, as the case may be, then any such fact may be certified  
20 by the planning commission to the city attorney of the city, who may thereupon  
21 commence a proceeding in the circuit court of the county in which the city is in whole  
22 or in part situated in the name of the city for the purpose of having such action,  
23 failure or omission, or threatened action, failure or omission, established by order of  
24 the court or stopped, prevented or otherwise rectified by mandamus, injunction or  
25 otherwise. Such proceeding shall be commenced by a petition to the circuit court

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1 alleging the violation complained of and praying for appropriate relief. It shall  
2 thereupon be the duty of the court to specify the time, not exceeding ~~20~~ 45 days after  
3 service of a copy of the petition, within which the redevelopment corporation  
4 complained of must answer the petition. The court, shall, immediately after a  
5 default in answering or after answer, as the case may be, inquire into the facts and  
6 circumstances in such manner as the court shall direct without other or formal  
7 proceedings, and without respect to any technical requirements. Such other persons  
8 or corporations as it shall seem to the court necessary or proper to join as parties in  
9 order to make its order or judgment effective may be joined as parties. The final  
10 judgment or order in any such action or proceeding shall dismiss the action or  
11 proceeding or establish the failure complained of or direct that a mandamus order,  
12 or an injunction, or both, issue, or grant such other relief as the court may deem  
13 appropriate.

14 **SECTION 3.** 102.23 (1) (c) of the statutes is amended to read:

15 102.23 (1) (c) The commission shall serve its answer within ~~20~~ 45 days after  
16 the service of the complaint, and, within the like time, the adverse party may serve  
17 an answer to the complaint, which answer may, by way of counterclaim or cross  
18 complaint, ask for the review of the order or award referred to in the complaint, with  
19 the same effect as if the party had commenced a separate action for the review  
20 thereof.

21 **SECTION 4.** 102.835 (14) of the statutes is amended to read:

22 102.835 (14) ANSWER BY 3RD PARTY. Within ~~20~~ 45 days after the service of the  
23 levy upon a 3rd party, the 3rd party shall file an answer with the department stating  
24 whether the 3rd party is in possession of or obligated with respect to property or

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1 rights to property of the uninsured employer, including a description of the property  
2 or the rights to property and the nature and dollar amount of any such obligation.

3 **SECTION 5.** 108.225 (14) of the statutes is amended to read:

4 108.225 (14) ANSWER BY 3RD PARTY. Within ~~20~~ 45 days after the service of the  
5 levy upon a 3rd party, the 3rd party shall file an answer with the department stating  
6 whether the 3rd party is in possession of or obligated with respect to property or  
7 rights to property of the debtor, including a description of the property or the rights  
8 to property and the nature and dollar amount of any such obligation.

9 **SECTION 6.** 125.12 (2) (d) of the statutes is amended to read:

10 125.12 (2) (d) *Judicial review.* The action of any municipal governing body in  
11 granting or failing to grant, suspending or revoking any license, or the failure of any  
12 municipal governing body to revoke or suspend any license for good cause, may be  
13 reviewed by the circuit court for the county in which the application for the license  
14 was issued, upon application by any applicant, licensee or resident of the  
15 municipality. The procedure on review shall be the same as in civil actions instituted  
16 in the circuit court. The person desiring review shall file pleadings, which shall be  
17 served on the municipal governing body in the manner provided in ch. 801 for service  
18 in civil actions and a copy of the pleadings shall be served on the applicant or licensee.  
19 The municipal governing body, applicant or licensee shall have ~~20~~ 45 days to file an  
20 answer to the complaint. Following filing of the answer, the matter shall be deemed  
21 at issue and hearing may be had within 5 days, upon due notice served upon the  
22 opposing party. The hearing shall be before the court without a jury. Subpoenas for  
23 witnesses may be issued and their attendance compelled. The decision of the court  
24 shall be filed within 10 days after the hearing and a copy of the decision shall be

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**SECTION 6**

1 transmitted to each of the parties. The decision shall be binding unless it is appealed  
2 to the court of appeals.

3 **SECTION 7.** 801.09 (2) (a) of the statutes is amended to read:

4 801.09 (2) (a) Within ~~20 days, or within 45 days if the defendant is the state~~  
5 ~~or an officer, agent, employe or agency of the state in an action or special proceeding~~  
6 ~~brought within the purview of s. 893.82 or 895.46, exclusive of the day of service, after~~  
7 the summons has been served personally upon the defendant or served by  
8 substitution personally upon another authorized to accept service of the summons  
9 for the defendant; or

10 **SECTION 8.** 801.09 (2) (b) of the statutes is amended to read:

11 801.09 (2) (b) Within ~~40~~ 45 days after a date stated in the summons, exclusive  
12 of such date, if no such personal or substituted personal service has been made, and  
13 service is made by publication. The date so stated in the summons shall be the date  
14 of the first required publication.

15 **SECTION 9.** 801.095 (1) of the statutes is amended to read:

16 801.095 (1) PERSONAL SERVICE; COMPLAINT ATTACHED.

17 STATE OF WISCONSIN

CIRCUIT COURT: .... COUNTY

18 \_\_\_\_\_

19 A. B.

20 Address

21 City, State Zip Code

File No. ....

22 , Plaintiff

23 vs.

S U M M O N S

24 C. D.

25 Address

.... (Case Classification Type): .... (Code No.)

**ASSEMBLY BILL 671**

1 City, State Zip Code  
2 , Defendant

3 \_\_\_\_\_  
4 THE STATE OF WISCONSIN, To each person named above as a Defendant:

5 You are hereby notified that the Plaintiff named above has filed a lawsuit or  
6 other legal action against you. The complaint, which is attached, states the nature  
7 and basis of the legal action.

8 Within ~~(20)~~ ~~(45)~~ 45 days of receiving this summons, you must respond with a  
9 written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the  
10 complaint. The court may reject or disregard an answer that does not follow the  
11 requirements of the statutes. The answer must be sent or delivered to the court,  
12 whose address is ....., and to ....., Plaintiff's attorney, whose address is ....., You may  
13 have an attorney help or represent you.

14 If you do not provide a proper answer within ~~(20)~~ ~~(45)~~ 45 days, the court may  
15 grant judgment against you for the award of money or other legal action requested  
16 in the complaint, and you may lose your right to object to anything that is or may be  
17 incorrect in the complaint. A judgment may be enforced as provided by law. A  
18 judgment awarding money may become a lien against any real estate you own now  
19 or in the future, and may also be enforced by garnishment or seizure of property.

20 Dated: ....., 19..

Signed: .... ..

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.: ....

25

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Address: ....

City, State Zip Code: ....

Phone No.: ....

**SECTION 10.** 801.095 (2) of the statutes is amended to read:

801.095 (2) PERSONAL SERVICE; NO COMPLAINT ATTACHED.

STATE OF WISCONSIN

CIRCUIT COURT: .... COUNTY

A. B.

Address

City, State Zip Code

File No. ....

, Plaintiff

vs.

S U M M O N S

C. D.

Address

.... (Case Classification Type): .... (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you.

Within ~~(20)~~ ~~(45)~~ 45 days of receiving this summons, you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is ....., and to ....., Plaintiff's attorney, whose address is .....

You may have an attorney help or represent you.





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**SECTION 11**

1 Address .... (Case Classification Type): .... (Code No.)

2 City, State Zip Code

3 , Defendant

4 \_\_\_\_\_

5 THE STATE OF WISCONSIN, To each person named above as a Defendant:

6 You are hereby notified that the Plaintiff named above has filed a lawsuit or  
7 other legal action against you. The complaint, which is also served upon you, states  
8 the nature and basis of the legal action.

9 Within 40 45 days after ....., 19.., you must respond with a written answer, as  
10 that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The  
11 court may reject or disregard an answer that does not follow the requirements of the  
12 statutes. The answer must be sent or delivered to the court, whose address is ....., and  
13 to ....., Plaintiff's attorney, whose address is ....., You may have an attorney help or  
14 represent you.

15 If you do not provide a proper answer within 40 45 days, the court may grant  
16 judgment against you for the award of money or other legal action requested in the  
17 complaint, and you may lose your right to object to anything that is or may be  
18 incorrect in the complaint. A judgment may be enforced as provided by law. A  
19 judgment awarding money may become a lien against any real estate you own now  
20 or in the future, and may also be enforced by garnishment or seizure of property.

21 Dated: ....., 19..

22 Signed: .... ....

23 A. B., Plaintiff

24 or

25 E. F., Plaintiff's Attorney

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State Bar No.: ....

Address: ....

City, State Zip Code: ....

Phone No.: ....

**SECTION 12.** 801.095 (4) of the statutes is amended to read:

801.095 (4) NO PERSONAL SERVICE; COMPLAINT NOT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT: .... COUNTY

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A. B.

Address

City, State Zip Code

File No. ....

, Plaintiff

vs.

S U M M O N S

C. D.

Address

.... (Case Classification Type): .... (Code No.)

City, State Zip Code

, Defendant

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THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you.

Within 40 45 days after ....., 19.., you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is ....., and to ....., Plaintiff's attorney, whose address is ....., You may have an attorney help or represent you.



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1 cross-claim or a reply to a counterclaim within 45 days after service of the pleading  
2 in which the claim is asserted. If any pleading is ordered by the court, it shall be  
3 served within ~~20~~ 45 days after service of the order, unless the order otherwise directs.  
4 The service of a motion permitted under sub. (2) alters these periods of time as  
5 follows, unless a different time is fixed by order of the court: if the court denies the  
6 motion or postpones its disposition until the trial on the merits, the responsive  
7 pleading shall be served within 10 days after notice of the court's action; or if the court  
8 grants a motion for a more definite statement, the responsive pleading shall be  
9 served within 10 days after the service of the more definite statement.

10 **SECTION 14.** 802.06 (6) of the statutes is amended to read:

11 802.06 (6) MOTION TO STRIKE. Upon motion made by a party before responding  
12 to a pleading or, if no responsive pleading is permitted upon motion made by a party  
13 within ~~20~~ 45 days after the service of the pleading upon the party or upon the court's  
14 own initiative at any time, the court may order stricken from any pleading any  
15 insufficient defense or any redundant, immaterial, impertinent, scandalous or  
16 indecent matter.

17 **SECTION 15.** 802.09 (1) of the statutes is amended to read:

18 802.09 (1) AMENDMENTS. A party may amend the party's pleading once as a  
19 matter of course at any time within 6 months after the summons and complaint are  
20 filed or within the time set in a scheduling order under s. 802.10. Otherwise a party  
21 may amend the pleading only by leave of court or by written consent of the adverse  
22 party; and leave shall be freely given at any stage of the action when justice so  
23 requires. A party shall plead in response to an amended pleading within ~~20~~ 45 days

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**SECTION 15**

1 after service of the amended pleading unless (a) the court otherwise orders or (b) no  
2 responsive pleading is required or permitted under s. 802.01 (1).

3 (END)