



2003 ASSEMBLY BILL 752

January 14, 2004 – Introduced by Representatives ALBERS, JENSEN, AINSWORTH, HINES, MUSSER, NASS, TOWNSEND and VAN ROY. Referred to Committee on Judiciary.

- 1 **AN ACT to create** 807.16 of the statutes; **relating to:** remedies in certain actions
2 concerning building code or zoning ordinance violations.

Analysis by the Legislative Reference Bureau

This bill specifies that, in any action in which a party seeks an order directing a person to raze, move, or modify a structure located on real property owned by the person as a result of the structure being in violation of a municipal building code or zoning ordinance, any municipality that issued a permit for the construction of the structure must be made a party to the action. If the permit was issued based upon an accurate application, if the structure was constructed in accordance with the permit, and if the party seeking the order consents, the court may order the municipality to grant a variance for the structure. With certain limited exceptions, if the court orders the person to raze the structure, the court must order the municipality to pay to the person an amount equal to the sum of all of the following: (a) the reasonable attorney fees incurred by the person in defending the action; (b) any fees paid by the person to the municipality with regard to the construction of the structure; (c) the total cost of labor and materials for construction of the structure; and (d) the total cost of razing the structure. With certain limited exceptions, if the court orders the person to move or modify the structure, the court must order the municipality to pay to the person an amount equal to the sum of all of the following: (a) the reasonable attorney fees incurred by the person in defending the action; (b) any fees paid by the person to the municipality with regard to the construction of the structure; and (c) the total cost of moving or modifying the structure. The remedies provided under this bill may be ordered in addition to or in lieu of any other remedy provided by law.

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For further information see the *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.** 807.16 of the statutes is created to read:

2 **807.16 Actions concerning building code or zoning ordinance**
3 **violations.** (1) In any action in which a party seeks an order directing a person to
4 raze, move, or modify a structure located on real property owned by the person as a
5 result of the structure being in violation of a municipal building code or zoning
6 ordinance, any municipality that issued a permit for the construction of the structure
7 shall be made a party to the action.

8 (2) If the permit was issued based upon an accurate application, if the structure
9 was constructed in accordance with the permit, and if the party seeking the order
10 consents, the court may order the municipality to grant a variance for the structure.

11 (3) If the permit was issued based upon an accurate application, if the structure
12 was constructed in accordance with the permit, and if the court orders the person to
13 raze the structure, the court shall order the municipality to pay to the person an
14 amount equal to the sum of all of the following:

15 (a) The reasonable attorney fees incurred by the person in defending the action.

16 (b) Any fees paid by the person to the municipality with regard to the
17 construction of the structure.

18 (c) The total cost of labor and materials for construction of the structure.

19 (d) The total cost of razing the structure.

20 (4) If the permit was issued based upon an accurate application, if the structure
21 was constructed in accordance with the permit, and if the court orders the person to

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1 move or modify the structure, the court shall order the municipality to pay to the
2 person an amount equal to the sum of all of the following:

3 (a) The reasonable attorney fees incurred by the person in defending the action.

4 (b) Any fees paid by the person to the municipality with regard to the
5 construction of the structure.

6 (c) The total cost of moving or modifying the structure.

7 **(5)** The court may order the remedies authorized under subs. (3) and (4) in
8 addition to or in lieu of any other remedy provided by law.

9 **SECTION 2. Initial applicability.**

10 (1) This act first applies to actions commenced on the effective date of this
11 subsection.

12

(END)