

2013 DRAFTING REQUEST

Bill

Received: 1/10/2013 Received By: mglass
Wanted: As time permits Same as LRB:
For: Keith Ripp (608) 266-3404 By/Representing: Liz DeBeck
May Contact: Drafter: mglass
Subject: Buildings/Safety - bldg stndrds Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Ripp@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Definition of dwelling in one- and two- family dwelling code

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 2/19/2013	kfollett 2/20/2013	jmurphy 2/20/2013	_____			
/1	mglass 2/26/2013	kfollett 2/28/2013	jfrantze 2/28/2013	_____	srose 2/20/2013		State
/2				_____	sbasford 2/28/2013	srose 3/6/2013	State

FE Sent For:

→ At Intro.

<END>

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/2				_____	sbasford 2/28/2013		State

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/1		kfollett 2/20/2013	jmurphy 2/20/2013	_____	srose 2/20/2013		State

FE Sent For:

12/6f
 2/28
 2/28
 2/28
 <END>

2013 DRAFTING REQUEST

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/?	mglass	1/15/13 2/20	Jan 2/20	_____ 2/20			

FE Sent For:

<END>

TO: Senator Luther Olsen
Representative Keith Ripp

FROM: Jason Culotta
Director of Tax & Transportation Policy, WMC

DATE: January 9, 2013

RE: **WACO State Dwelling Code Drafting Request**

Based on your previous conversations with Bud Styer of the WACO Board on this subject, please submit the following for drafting.

1. Amend the statutory definition of a "dwelling."
 - a. The relevant statute is found in 101.61
 - i. "Dwelling" means any building that contains one or 2 dwelling unit. "Dwelling unit means a structure or that part of a structure which is used or intended to be used as a home, residence ~~or~~ sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.
 - b. This definition needs an additional sentence indicating that the term does not include campground cabins. For example:
 - i. Excludes camping units in a licensed campground
2. Some of the parameters of what could be considered a "camping cabin" would include:
 - a. A camping unit located in a campground with a permit issued under authority of s. 254.47, Wis. Stats. (this is the statute requiring permits for campgrounds)
 - b. Which is occupied in a manner consistent with the rules promulgated by the state under s. 250.04(1) and 254.47
 - c. Is not occupied more than 180 days per year
 - d. Other limitations as necessary to assure that cabins are not residences or structures.
3. Define the terms "~~pen~~" and "deck" as a maximum of width of six feet and the length of the camping unit or part of the camping unit.
4. Amend the statutes to provide that the state plumbing code may not prohibit campground cabins from having approved portable toilet systems in the cabin or transfer tanks associated with RVs.

by whom?

state plumbing code 145.13

Gibson-Glass, Mary

From: DeBeck, Elisabeth
Sent: Wednesday, January 09, 2013 5:12 PM
To: Gibson-Glass, Mary
Subject: Email from LRB Website
Attachments: Bud Styer-Dwelling Change.pdf

Good evening Mary!

One of our constituents is having an issue with the definition of "dwelling" in statute and we were hoping we could draft a bill to fix it. I've attached the relevant information for you. I took a guess and thought this would be most relevant to Buildings and safety, but please let me know if I need to contact someone else. Thanks!

Liz

Elisabeth DeBeck
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District

Gibson-Glass, Mary

From: DeBeck, Elisabeth
Sent: Tuesday, January 15, 2013 5:31 PM
To: Gibson-Glass, Mary
Subject: RE: Email from LRB Website

Good Evening Mary!

I just heard from our lobbyist helping us with this bill that he submitted some wrong facts that will need to be changed in the draft you are preparing for us. I wanted to get it to you before you formally submit our draft to us.

Here are the changes: Under the third bullet point, the term "port" should read "porch" and the width of six feet should be a width of ten feet.

Please let me know if you have any questions!

Thanks for your help,

Liz

From: Gibson-Glass, Mary
Sent: Thursday, January 10, 2013 8:43 AM
To: DeBeck, Elisabeth
Subject: RE: Email from LRB Website

Liz,

This is a basically buildings and safety draft. I will enter a drafting request for your office.

Mary

From: DeBeck, Elisabeth
Sent: Wednesday, January 09, 2013 5:12 PM
To: Gibson-Glass, Mary
Subject: Email from LRB Website

Good evening Mary!

One of our constituents is having an issue with the definition of "dwelling" in statute and we were hoping we could draft a bill to fix it. I've attached the relevant information for you. I took a guess and thought this would be most relevant to Buildings and safety, but please let me know if I need to contact someone else. Thanks!

Liz

Elisabeth DeBeck
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District



RMNR

In: 2/19/13

Due Thurs
2/21

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

from the dwelling code

camping resort, or recreational or educational

camp

Gen

of the family & two-family

- 1 AN ACT ... relating to: the applicability of the one- and two-family dwelling code to certain
- 2 cabins, and the exclusion of certain recreational vehicles and portable toilet
- 3 systems from the definition of plumbing and granting rule-making authority.

(dwelling code)

Analysis by the Legislative Reference Bureau

Under current law, any one- or two-family dwelling for which initial construction began on or after December 1, 1978, must comply with the one- and two-family dwelling code. Under current law, the department of Safety and Professional Services promulgates rules for this code which includes standards for heating, ventilation, plumbing, electricity, and other systems. One- and two-family dwellings for which initial construction began before that date are not covered by this code but are subject to the state electrical and plumbing code (DHS)

This bill excludes cabins or similar structures that are located in a campground for which a permit has been issued by the Department of Health Services, that are vacant at least 180 days each year, and that do not have a porch or deck that extends more than 6 feet out from an exterior wall.

This bill also excludes portable toilet systems and stationary holding tanks used to collect wastewater from recreational vehicles from the definition of plumbing, as defined for purposes of statutory provisions relating to plumbing and for purposes of the state plumbing code.

they are

that are occupied in a manner consistent with certain rules promulgated by DHS;

SECTION #. 101.615 (1), (1m), (2) and (3) of the statutes
is renumbered 101.615 (1d) (a), (b), (c) and (d).

ale

For further information see the **state** 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. 101.61 (1) of the statutes is amended to read:

2 101.61 (1) "Dwelling" means any building that contains one or 2 dwelling units.

3 "Dwelling unit" means a structure or that part of a structure which is used or

4 intended to be used as a home, residence or sleeping place by one person or by 2 or

5 more persons maintaining a common household, to the exclusion of all others.

6 "Dwelling" and "dwelling unit" do not include a structure that is exempt under s.

7 101.615 (2).

8 History: 1975 c. 404; 1979 c. 89, 148; 1989 a. 109.

SECTION 2. 101.615 (title) of the statutes is repealed and recreated to read:

9 101.615 (title) **Applicability; exemption.**

10 SECTION 3. 101.615 (intro.) of the statutes is renumbered 101.615 (1) (intro.).

11 SECTION 4. 101.615 (2) of the statutes is created to read:

12 101.615 (2) (a) A structure is exempt from this subchapter if all of the following

13 apply: camping resort, or recreational or educational camp

14 1. The building is a cabin or similar structure that is located in a campground
15 for which a permit is issued under s. 254.47.

16 2. The building is occupied in a manner consistent with

17 3. The building is vacant at least 180 days each year.

18 4. The building does not have a porch or deck that extends more than 6 feet
19 out from any exterior wall of the building.

20 5. The building is considered a cabin under any rules promulgated under par.

21 (b). with rules promulgated by the
department of health services under s. 250.04(1)
or 254.47.

1 (b) The department may promulgate rules to establish standards for
2 determining whether a dwelling or other structure is a cabin for purposes of ^{this} the
3 subchapter. ✓

4 SECTION 5. 145.01 (10) (br) 4. of the statutes is created to read:

5 145.01 (10) (br) 4. A self-contained portable toilet that retains sewage in a
6 holding tank for disposal to a sewage system that is approved by the department. ✓

7 SECTION 6. 145.01 (10) (br) 5. of the statutes is created to read:

8 145.01 (10) (br) 5. A stationary holding tank used to collect and hold
9 wastewater discharges generated by an individual camping trailer or a recreational
10 vehicle.

11 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1094/1dn
MGG...*kgf*

Date

- 1. Because the definition of "dwelling" and "dwelling unit" are incorporated by cross-reference into other definitions throughout the statutes, cabins that are exempt from the one- and ²-family dwelling code will no longer be subject to the following statutory provisions, the following statutes: s. 101.14 (fire inspections, prevention, etc.), s. 101.647 (carbon monoxide detectors), s. 134.81 (water heater thermostat settings), ss. 227.137 (3)(e) and 277.19 (4)(d) ⁷. (rules setting construction standards for dwellings), ⁵ and s. 709.001 (disclosures required by owners of real estate) and ch. 799 (procedures in small claims court). Let me know if you want any changes.
- ⁺ 2. The drafting instruction ³ do not give a context for defining "porch" and "deck". I took a guess and included this as a requirement that a cabin must meet to qualify for the exemption. *using the terms*
- 3.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

Please review the rest of this draft to make sure it is consistent with your intent.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1094/1dn
MGG:kjf:jm

February 20, 2013

1. Because the definition of “dwelling” and “dwelling unit” are incorporated by cross-references into other definitions throughout the statutes, cabins that are exempt from the one-family and two-family dwelling code will no longer be subject to the following statutory provisions in the following statutes: s. 101.14 (fire inspections, prevention, etc.), s. 101.647 (carbon monoxide detectors), s. 134.81 (water heater thermostat settings), ss. 227.137 (3) (e) and 277.19 (4) (d) 7. (rules setting construction standards for dwellings), and s. 709.001 (disclosures required by owners of real estate), and ch. 799 (procedures in small claims court). Let me know if you want any changes.
2. The drafting instructions do not give a context for using the terms “porch” and “deck.” I took a guess and included this as a requirement that a cabin must meet to qualify for the exemption.
3. Please review the rest of this draft to make sure it is consistent with your intent.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215
E-mail: mary.gibson-glass@legis.wisconsin.gov

Gibson-Glass, Mary

From: DeBeck, Elisabeth
Sent: Thursday, February 21, 2013 5:33 PM
To: Gibson-Glass, Mary
Subject: RE: Email from LRB Website
Attachments: Bud Styer cabinlanguage.pdf

Good evening Mary,

I received your draft of the bill for a dwelling definition change, and was able to share it with our constituent. We received the following correspondence back about potential changes (see attached). Please let me know if the changes are acceptable and if you have any questions.

Thanks!

Liz

Elisabeth DeBeck
Clerk, Assembly Committee on Transportation
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District

From: Gibson-Glass, Mary
Sent: Thursday, January 10, 2013 8:43 AM
To: DeBeck, Elisabeth
Subject: RE: Email from LRB Website

Liz,

This is a basically buildings and safety draft. I will enter a drafting request for your office.

Mary

From: DeBeck, Elisabeth
Sent: Wednesday, January 09, 2013 5:12 PM
To: Gibson-Glass, Mary
Subject: Email from LRB Website

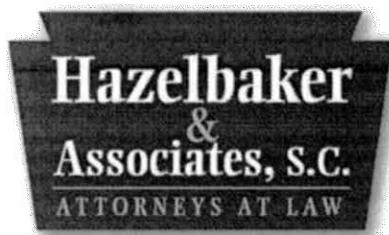
Good evening Mary!

One of our constituents is having an issue with the definition of "dwelling" in statute and we were hoping we could draft a bill to fix it. I've attached the relevant information for you. I took a guess and thought this would be most relevant to Buildings and safety, but please let me know if I need to contact someone else. Thanks!

Liz

Elisabeth DeBeck
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District

Mark B. Hazelbaker,
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3555 University Avenue
Madison, WI 53705
(608) 663-9770
www.hazelbakerlaw.com

Memo

To: Bud Styer
From: Mark Hazelbaker, attorney at law
Re: LRB-1094/1
Date: February 21, 2013

Here are some comments about the first draft of the legislation you are working on with Representative Ripp.

1. The draft should be modified to re-create cross-references to requiring fire inspections, carbon monoxide detectors, water heater thermostat settings, and disclosures required by owners of real estate in small claims court procedures. Given comments later in this memo, the absence of cross references to rulemaking authority may not be a problem.
2. At page 2 lines 16 and 18, in lieu of the term "building" I suggest the structure be referred to as a "camping unit." Some of the buildings we wish to exempt from the uniform plumbing code are not necessarily "buildings." These would include yurts, gazebos, pergolas, and other seasonal structures.
3. On page 3 lines 1, two and four also use the word "building," which should be changed to camping unit.
4. On page 3 at line 2, the dimension should be changed to "12 feet."
5. I do not think it is necessary to specify that the department should have rulemaking power to define what is considered a cabin. For that reason, I think the material on page 3 from lines 4 through eight should be deleted.
6. On page 3, section seven creates an additional exemption from the state plumbing code for wastewater storage tanks. The exemption should rephrase to state "a stationary or transfer holding tank used to collect, hold and transfer wastewater discharges generated by an individual camping trailer, recreational vehicle, or a structure described in section 101.615 (2m)." That would allow transfer tanks to be used to service cabins. If it is not your intention to have the transfer tanks service cabins, then obviously it need not be added.

MBH:mbh



State of Wisconsin
2013 - 2014 LEGISLATURE



RMR

LRB-1094/r 2

MGG&TJD:kjf:jm

Soon
in 2/24

2013 BILL

due
3/1

structures used for camping

Regen

1 AN ACT to renumber 101.615 (intro.) and 101.615 (1), (1m), (2) and (3); to amend
 2 101.61 (1); to repeal and recreate 101.615 (title); and to create 101.615 (2m),
 3 145.01 (10) (br) 4. and 145.01 (10) (br) 5. of the statutes; relating to: the
 4 applicability of the one-family and two-family dwelling code to certain cabins
 5 and the exclusion of certain recreational vehicles and portable toilet systems from
 6 the definition of plumbing, and granting rule-making authority

Analysis by the Legislative Reference Bureau

Under current law, any one-family or two-family dwelling for which initial construction began on or after December 1, 1978, must comply with the one-family and two-family dwelling code (dwelling code). Under current law, the Department of Safety and Professional Services promulgates rules for this code which includes standards for heating, ventilation, plumbing, electricity, and other systems. One-family and two-family dwellings for which initial construction began before that date are not covered by this code but are subject to the state electrical and plumbing codes.

This bill excludes from the dwelling code cabins or similar structures that are located in a campground, camping resort, or recreational or educational camp for which a permit has been issued by the Department of Health Services (DHS) that are occupied in a manner consistent with certain rules promulgated by DHS that are vacant at least 180 days each year and that do not have a porch or deck that extends more than six feet out from an exterior wall.

that are used for camping and that are

cabins and other structures

4
5
6

+
+
+

112

BILL

camping units and

*or
or transfer*

This bill also excludes portable toilet systems and stationary holding tanks used to collect wastewater from recreational vehicles from the definition of plumbing, as they are defined for purposes of statutory provisions relating to plumbing and for purposes of the state plumbing code.

For further information see the *state* 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.** 101.61 (1) of the statutes is amended to read:

2 101.61 (1) "Dwelling" means any building that contains one or 2 dwelling units.

3 "Dwelling unit" means a structure or that part of a structure which is used or
4 intended to be used as a home, residence or sleeping place by one person or by 2 or
5 more persons maintaining a common household, to the exclusion of all others.

6 "Dwelling" and "dwelling unit" do not include a structure that is exempt under s.

7 101.615 (2).

INS 2-7

8 **SECTION 2.** 101.615 (title) of the statutes is repealed and recreated to read:

9 **101.615 (title) Applicability; exemption.**

10 **SECTION 3.** 101.615 (intro.) of the statutes is renumbered 101.615 (1d) (intro.).

11 **SECTION 4.** 101.615 (1), (1m), (2) and (3) of the statutes are renumbered 101.615
12 (1d) (a), (b), (c) and (d).

13 **SECTION 5.** 101.615 (2m) of the statutes is created to read:

14 101.615 (2m) (a) A *camping unit* ~~structure~~ is exempt from this subchapter if all of the
15 following apply:

16 1. The building is a cabin or similar structure that is located in a campground
17 for which a permit is issued under s. 254.47.

18 2. The building is occupied in a manner consistent with rules promulgated by
19 the department of health services under s. 250.04 (1) or 254.47.

BILL

Camping unit

1
2
3

3. The building is vacant at least 180 days each year.

than 12

4. The building does not have a porch or deck that extends more than 6 feet out

from any exterior wall of the building.

4

5. The building is considered a cabin under any rules promulgated under par.

5

(b).

6

(b) The department may promulgate rules to establish standards for determining whether a dwelling or other structure is a cabin for purposes of this

7

subchapter.

8

SECTION 6. 145.01 (10) (br) 4. of the statutes is created to read:

*insert
3-8*

9

145.01 (10) (br) 4. A self-contained portable toilet that retains sewage in a

10

holding tank for disposal to a sewage system that is approved by the department.

11

SECTION 7. 145.01 (10) (br) 5. of the statutes is created to read:

12

145.01 (10) (br) 5. A *stationary* holding tank *or transfer* used to collect, and hold,

13

wastewater discharges generated by an individual camping trailer or a recreational

14

vehicle, or camping unit to which S. 101.615(2m) applies.

15

16

(END)

← INSERT 3-15

or transfer

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1094/2ins
MGG:.....

Ins ANL

simple
spec

which is used in the statutory provisions regulating the plumbing trade and for purposes of the state plumbing code.

Insert 2-7

SECTION 1. 101.14 (4m) (a) 2. of the statutes is amended to read:

101.14 (4m) (a) 2. "Dwelling unit" has the meaning given in s. 101.61 (1) (1f).

SECTION 2. 101.61 (1) of the statutes is renumbered 101.61 (1f).

SECTION 3. 101.61 (1c) of the statutes is created to read:

101.61 (1c) "Camping unit" means a structure that is used for seasonal camping and includes a cabin, cottage, yurt, gazebo, or pergola.

History: 1971 c. 185 s. 1; 1971 c. 228; Stats. 1971 s. 101.14; 1973 c. 324, 326, 336; 1975 c. 39, 94; 1977 c. 29, 413; 1979 c. 221; 1981 c. 320, 341; 1983 a. 36; 1983 a. 189 s. 329 (8); 1983 a. 295, 410; 1985 a. 29; 1985 a. 135 s. 83 (3); 1987 a. 288, 321, 399; 1989 a. 31, 109, 359; 1991 a. 187, 269; 1993 a. 261; 1995 a. 27; 1997 a. 27; 1999 a. 9, 43, 186; 2003 a. 269; 2005 a. 78, 220; 2007 a. 148, 149, 173; 2011 a. 257.

Insert 3-8

SECTION 4. 101.647 (1) (am) of the statutes is amended to read:

101.647 (1) (am) Notwithstanding s. 101.61 (1) (1f), "dwelling" does not include a tourist rooming house, as defined in s. 254.61 (6).

History: 2009 a. 158.

SECTION 5. 101.971 (1) of the statutes is amended to read:

101.971 (1) "Dwelling unit" has the meaning given in s. 101.61 (1) (1f).

History: 1991 a. 269; 2007 a. 11.

SECTION 6. 134.81 (intro.) of the statutes is amended to read:

134.81 Water heater thermostat settings. (intro.) No person who manufactures water heaters may sell any new water heater designed for use in a dwelling unit, as defined in s. 101.61 (1) (1f), unless that person does all of the following:

History: 1987 a. 102.

INS 3-15

SECTION 7. 227.137 (3) (f) of the statutes is amended to read:

227.137 (3) (f) Except as provided in this paragraph, if the economic impact analysis relates to a proposed rule of the department of safety and professional services under s. 101.63 (1) establishing standards for the construction of a dwelling, as defined in s. 101.61 (1) to which subch. II of ch. 101 applies, an analysis of whether the proposed rule would increase the cost of constructing or remodeling such a dwelling by more than \$1,000. This paragraph applies notwithstanding that the purpose of the one- and 2-family dwelling code under s. 101.60 includes promoting interstate uniformity in construction standards. This paragraph does not apply to a proposed rule whose promulgation has been authorized under s. 227.19 (5) (fm).

History: 2003 a. 118; 2005 a. 249; 2011 a. 21 ss. 7 to 18, 21 to 26; 2011 a. 32; s. 13.92 (1) (bm) 2.

SECTION 8. 227.19 (4) (d) 7. of the statutes is amended to read:

227.19 (4) (d) 7. In the case of a proposed rule of the department of safety and professional services under s. 101.63 (1) establishing standards for the construction of a dwelling, as defined in s. 101.61 (1) to which subch. II of ch. 101 applies, the proposed rule would increase the cost of constructing or remodeling such a dwelling by more than \$1,000. This subdivision applies notwithstanding that the purpose of the one- and 2-family dwelling code under s. 101.60 includes promoting interstate uniformity in construction standards. This subdivision does not apply to a proposed rule whose promulgation has been authorized under sub. (5) (fm).

History: 1985 a. 182; 1987 a. 253; 1987 a. 403 s. 256; 1989 a. 175; 2001 a. 87; 2003 a. 118, 277; 2005 a. 249; 2007 a. 20, 180; 2011 a. 21, 32, 46; s. 35.17 correction in (3) (intro.).

SECTION 9. 709.001 (2) of the statutes is amended to read:

709.001 (2) "Dwelling unit" has the meaning given in s. 101.61 (1) (1f).

History: 2011 a. 107.

SECTION 10. 799.01 (1) (am) of the statutes is amended to read:

799.01 (1) (am) *Return of earnest money.* Actions for the return of earnest money tendered pursuant to a contract for purchase of real property, including a condominium unit, as defined in s. 703.02 (15), and time-share property, as defined in s. 707.02 (32), that includes 1 to 4 dwelling units, as defined in s. 101.61 ~~(1)~~ ^(1f), by sale, exchange or land contract unless the transfer is exempt from the real estate transfer fee under s. 77.25 regardless of the amount claimed.

History: Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 325, 365, 422; 1977 c. 449 s. 497; 1979 c. 32 ss. 66, 92 (16); 1979 c. 175 s. 53; Stats. 1979 s. 799.01; 1983 a. 228; 1987 a. 208, 378, 403; 1989 a. 31, 359; 1991 a. 163; 1993 a. 80, 181; 1995 a. 27; 2011 a. 32.

SECTION 11. 799.01 (1) (cm) of the statutes is amended to read:

799.01 (1) (cm) *Arbitration.* Actions for the confirmation, vacation, modification or correction of an arbitration award where arbitration was in settlement of a controversy arising out of a transaction for the purchase of real property, including a condominium unit, as defined in s. 703.02 (15), and time-share property, as defined in s. 707.02 (32), that includes 1 to 4 dwelling units, as defined in s. 101.61 ~~(1)~~ ^(1f), by sale, exchange or land contract regardless of the amount of that award.

History: Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 325, 365, 422; 1977 c. 449 s. 497; 1979 c. 32 ss. 66, 92 (16); 1979 c. 175 s. 53; Stats. 1979 s. 799.01; 1983 a. 228; 1987 a. 208, 378, 403; 1989 a. 31, 359; 1991 a. 163; 1993 a. 80, 181; 1995 a. 27; 2011 a. 32.