

2013 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB625)

Received: **2/11/2014** Received By: **pkahler**
 Wanted: **As time permits** Same as LRB:
 For: **Evan Goyke (608) 266-0645** By/Representing: **Ryan Knocke**
 May Contact: Drafter: **pkahler**
 Subject: **Courts - immunity liability** Addl. Drafters: **jkreye**
Real Estate - foreclosures **phurley**
Tax, Property - other

Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Municipality going on properties in tax or mortgage foreclosure

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>
/?	pkahler 2/12/2014	jdye 2/12/2014	rschluet 2/12/2014	_____			
/1	pkahler 2/13/2014	wjackson 2/12/2014	jfrantze 2/12/2014	_____	lparisi 2/12/2014	lparisi 2/12/2014	
/2	phurley 2/13/2014	jdye 2/13/2014	jfrantze 2/13/2014	_____	lparisi 2/13/2014	lparisi 2/13/2014	

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/3	pkahler 2/14/2014	jdye 2/13/2014	jmurphy 2/13/2014	_____ _____	mbarman 2/13/2014	mbarman 2/13/2014	
/4		jdye 2/14/2014	jmurphy 2/14/2014	_____ _____	mbarman 2/14/2014	mbarman 2/14/2014	

FE Sent For:

<END>

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Tax, Property - other

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

Pre Topic: Marc.Shovers@legis.wisconsin.gov
Joe.Kreye@legis.wisconsin.gov

No specific pre topic given

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/2	phurley 2/13/2014	jdyer 2/13/2014	jfrantze 2/13/2014	_____	lparisi 2/13/2014	lparisi 2/13/2014	

4/2/14 jld

2/14

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/3		jdye 2/13/2014	jmurphy 2/13/2014	_____	mbarman 2/13/2014	mbarman 2/13/2014	

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3 2/13 jld jd Jm 2/13

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/1	pkahler 2/12/2014	wjackson 2/12/2014	jfrantze 2/12/2014	_____	lparisi 2/12/2014	lparisi 2/12/2014	

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2/2/13 jld jd Jo 2/13

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/?	pkahler	1/2 jld					
		1 wly 2/12	2/12/14				

FE Sent For:

<END>

Kahler, Pam

From: Knocke, Ryan
Sent: Tuesday, February 11, 2014 4:47 PM
To: Kahler, Pam
Subject: FW:

From: Goyke, Evan
Sent: Tuesday, February 11, 2014 3:48 PM
To: Knocke, Ryan
Subject:

Changes needed to AB 625

First, add application to properties that are subject to a tax foreclosure lawsuit, not just a mortgage foreclosure lawsuit.

Second, add notice requirement for municipality prior to entering. I think this should include: 1) the written statement of criteria of abandonment and 2) a 15-day cure notice prior to entry, with the notice to include that after the 15 days the municipality intends to enter. ^(b)

Third, provision preventing the municipality ^(c) from billing the property owner of the cost of securing the property if the municipality elects to do so. The municipality may place the costs on the property tax bill.

Fourth, sunset the bill after three years. *Repeal provisions*

Fifth, remove the "likely to be abandoned" language from the power extended to municipalities.

6-0645



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs02967
PJK&PJH:.....

due TODAY

must run
wli

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY SUBSTITUTE AMENDMENT ,

TO ASSEMBLY BILL 625

gen cont

1 AN ACT ^{gen cont}; relating to: entry on property in mortgage or tax foreclosure. ✓

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

2

(END)



ASSEMBLY BILL 625

necessary to preserve or protect the property or public health and safety. This may be done, however, only if the municipality has determined that it is likely that the property is abandoned, using any reasonable criteria, including the criteria that a court uses in a foreclosure action to determine that property has been abandoned, and that it is necessary to preserve or protect the property or public health and safety or to inspect the property to determine if any action is necessary to preserve or protect the property or the public health and safety. The bill also provides that, in a mortgage foreclosure action in which the court has determined that the property has been abandoned, after judgment is entered for the plaintiff in the action, the plaintiff may go on the property and enter into any buildings on the property, using such reasonable force as is necessary, to inspect the property and take any action necessary to preserve or protect the property. The bill provides immunity from civil and criminal liability to any employee or agent of, or contractor with, a municipality in which a property in foreclosure is located or utility company that provides service to the property, and to a plaintiff in a foreclosure action, for acts or omissions related to going on, and inspecting, the property and taking any actions authorized under the bill.

The bill requires the clerk of circuit court for the county in which a mortgage foreclosure action is commenced to provide notice of the commencement of the action to the municipality in which the property in foreclosure is located and to the law enforcement agency that provides primary law enforcement services to that municipality. The notice must include the address of the property and the name and address of the plaintiff in the foreclosure action, but may not include the name of the property owner or defendant in the foreclosure action.

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:

- 66.0414
- ① SECTION 1. ~~66.0414~~ of the statutes is created to read:
- ② ~~66.0414~~ Entry on property in foreclosure. (1) DEFINITIONS. In this section:
- ③ b (A) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).
- ④ c (A) "Municipality" means a city, village, or town.
- ⑤ d (A) "Property" means ~~mortgaged~~ ^{the} premises that are the subject of a foreclosure
- 6 action.
- ⑦ e (A) "Representative of a utility" means a person who is employed by, an agent
- 8 of, or under contract with a public utility, as defined in s. 196.01 (5), or a cooperative

v. Subpart 2-2

ASSEMBLY BILL 625

1 association organized under ch. 185, that provides water, electric, or natural gas
2 service to the property.

3 ~~(1)~~ (2) "Representative of the municipality" means a person who is employed by,
4 an agent of, or under contract with a municipality. (a) ✓

5 (2) ENTRY BY MUNICIPALITY OR UTILITY. At any time after the commencement of
6 a mortgage foreclosure action, a representative of the municipality in which the
7 property is located or a representative of a utility may go on the property, enter any
8 buildings on the property, using such reasonable force as appears necessary, and take
9 any action necessary to preserve or protect the property or public health and safety,
10 if all of the following apply:

11 ¶ 1. (a) The municipality has determined that the property is abandoned or that it
12 is likely that the property is abandoned. The municipality may use any reasonable
13 criteria to determine whether the property is abandoned, including the criteria
14 under s. 846.102 (2) (a) to (f).

15 ¶ 2. (b) The municipality has determined that entry on the property or in buildings
16 on the property is necessary to preserve or protect the property or public health and
17 safety or to inspect the property to determine if any action is necessary to preserve
18 or protect the property or public health and safety.

✓ Insert 3-18 →

19 (3) ENTRY BY PLAINTIFF. In a mortgage foreclosure action, if the court finds under
20 s. 846.102 that the property has been abandoned, at any time after judgment for the
21 plaintiff has been entered, the plaintiff, or an employee or agent of or contractor with
22 the plaintiff, may go on the property and enter any buildings on the property, using
23 such reasonable force as appears necessary, to inspect the property and take any
24 action necessary to preserve or protect the property. ✓

ASSEMBLY BILL 625

SECTION 1

1

(4) NOTICE FROM CLERK OF COURT. (a) At the commencement of a mortgage

2 foreclosure action, the clerk of circuit court for the county in which the action is filed
3 shall provide notice of the commencement of the action to the municipality in which
4 the property is located and to the law enforcement agency that provides primary law
5 enforcement services to the municipality in which the property is located.

6 (b) The clerk of circuit court and the municipality and law enforcement agency
7 may agree on the form of the notice and the method of delivering the notice, or the
8 clerk may provide the notice in the form and manner most convenient for the clerk,
9 which may include delivery by electronic mail.

10 (c) The notice provided under this subsection shall include the street address
11 or location of the property and the name and address of the plaintiff in the action.
12 The notice may not include the name of the owner of record of the property or the
13 name of the defendant in the action.

14 (5) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
15 a property and enter buildings on a property is immune from civil liability for acts
16 or omissions related to carrying out the powers and responsibilities under sub. (2)
17 or (3), whichever is applicable, unless the person asserting liability proves that the
18 act or omission constitutes willful misconduct.

Insert 4-18

19 SECTION 2. 943.13 (4m) (e) of the statutes is created to read:

20 943.13 (4m) (e) A person entering or remaining on the land as authorized under
21 s. 846.085 (2) or (3). 66.0414

22 SECTION 3. 943.14 of the statutes is amended to read:

23 943.14 Criminal trespass to dwellings. Whoever intentionally enters the
24 dwelling of another without the consent of some person lawfully upon the premises,
25 under circumstances tending to create or provoke a breach of the peace, is guilty of

ASSEMBLY BILL 625

1 a Class A misdemeanor. This section does not apply to a person entering or
2 remaining on the land as authorized under s. ~~846.085~~(2) or (3). → 66.0414 ✓

3 SECTION 4. 943.15 (1r) of the statutes is created to read:

4 943.15 (1r) This section does not apply to a person entering or remaining on
5 the land as authorized under s. ~~846.085~~(2) or (3). → 66.0414

6 SECTION 5. Initial applicability.

7 (1) This act first applies to foreclosure actions that are commenced on the
8 effective date of this subsection.

9 (END)

Insert 5-8 ✓

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0296/?ins
PJK:.....

INSERT 2-2

1 (a) "Foreclosure action" means a mortgage foreclosure action under ch. 846 or
2 an action to foreclose a tax certificate under s. 75.19.

(END OF INSERT 2-2)

INSERT 3-18

3 (b) Before a representative of the municipality goes on the property, all of the
4 following must be satisfied:

5 2. At least 15 days before a representative goes on the property, the
6 municipality sends to the owner of record of the property a notice that a
7 representative of the municipality intends to go on the property and enter buildings
8 on the property to inspect the property and may take action to preserve and protect
9 the property. The notice shall be sent by 1st class mail to the owner's last-known
10 address and shall state the date on which the representative intends to go on the
11 property.

12 2. The municipality may charge the cost of any action taken under this
13 subsection in full or in part against the property, and if that cost is so charged it is
14 a lien upon the property and may be assessed and collected as a special charge.

(END OF INSERT 3-18)

INSERT 4-18

15 (6) APPLICABILITY. (a) Subsections (2) and (3) apply to foreclosure actions that
16 are pending on, or commenced on or after, the effective date of this paragraph
17 [LRB inserts date].

18 (b) Subsection (4) applies to foreclosure actions that are commenced on or after
19 the effective date of this paragraph [LRB inserts date].



Insert 4-18 cont'd

1 *41* SECTION 1. 66.0414[✓] of the statutes, as created by 2013 Wisconsin Act (this
2 act), is repealed.

(END OF INSERT 4-18)

INSERT 5-8

3 SECTION 2. **Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) The repeal of section 66.0414[✓] of the statutes takes effect on the first day of
6 the 37th month beginning after publication.[✓]

(END OF INSERT 5-8)



ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 625

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 5: delete "UTILITY. At" and substitute "UTILITY. (a) At".

3 2. Page 3, line 11: delete "(a)" and substitute "1.".

4 3. Page 3, line 15: delete "(b)" and substitute "2.".

5 4. Page 3, line 18: after that line insert:

6 ⁴¹ (b) The municipality shall file with the clerk of the circuit court for the county
7 in which the property is located an affidavit of the chief executive officer of the
8 municipality, or his or her designee, stating the basis upon which the municipality
9 has determined that the property is, or is likely to be, abandoned and the basis upon
10 which the municipality has determined that entry on the property or in buildings on
11 the property is necessary. (end ins 3-18A)

Insert 3-18-A

(END)



ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 625

1 At the locations indicated, amend the bill as follows:

2 1. Page 3, line 5: delete "UTILITY. At" and substitute "UTILITY. (a) At".

3 2. Page 3, line 11: delete "(a)" and substitute "1.".

4 3. Page 3, line 15: delete "(b)" and substitute "2.".

5 4. Page 3, line 18: after that line insert:

6 ⁴¹ ² ¹ The municipality shall pay the cost, if any, of any action taken under this
7 subsection to preserve or protect the property or public health and safety and may
8 not seek reimbursement from the plaintiff in the foreclosure action or from any
9 former, current, or future owner of the property. ^{De} (end ins 3-18B)

10

(END)

ins 3-18-B

except as provided in subss. 2.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0296/1

PJK&PJH:jld&wlj:rs

rmisner

stays

pf

stay

ASSEMBLY SUBSTITUTE AMENDMENT,
TO ASSEMBLY BILL 625

today,
please

Please
check
A.R.

Regen

1 AN ACT *to repeal* 66.0414; *to amend* 943.14; and *to create* 66.0414, 943.13 (4m)
2 (e) and 943.15 (1r) of the statutes; **relating to:** entry on property in mortgage
3 or tax foreclosure.

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

4 SECTION 1. 66.0414 of the statutes is created to read:
5 **66.0414 Entry on property in foreclosure.** (1) DEFINITIONS. In this section:
6 (a) "Foreclosure action" means a mortgage foreclosure action under ch. 846 or
7 an action to foreclose a tax certificate under s. 75.19.
8 (b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).
9 (c) "Municipality" means a city, village, or town.
10 (d) "Property" means the premises that are the subject of a foreclosure action.
11 (e) "Representative of a utility" means a person who is employed by, an agent
12 of, or under contract with a public utility, as defined in s. 196.01 (5), or a cooperative

1 association organized under ch. 185, that provides water, electric, or natural gas
2 service to the property.

3 (f) “Representative of the municipality” means a person who is employed by, an
4 agent of, or under contract with a municipality.

5 (2) ENTRY BY MUNICIPALITY OR UTILITY. (a) At any time after the commencement
6 of a foreclosure action, a representative of the municipality in which the property is
7 located or a representative of a utility may go on the property, enter any buildings
8 on the property, using such reasonable force as appears necessary, and take any
9 action necessary to preserve or protect the property or public health and safety, if all
10 of the following apply:

11 1. The municipality has determined that the property is abandoned. The
12 municipality may use any reasonable criteria to determine whether the property is
13 abandoned, including the criteria under s. 846.102 (2) (a) to (f).

14 2. The municipality has determined that entry on the property or in buildings
15 on the property is necessary to preserve or protect the property or public health and
16 safety or to inspect the property to determine if any action is necessary to preserve
17 or protect the property or public health and safety.

18 (b) Before a representative of the municipality goes on the property, all of the
19 following must be satisfied:

20 1. The municipality files with the clerk of the circuit court for the county in
21 which the property is located an affidavit of the chief executive officer of the
22 municipality, or his or her designee, stating the basis upon which the municipality
23 has determined that the property is abandoned and the basis upon which the
24 municipality has determined that entry on the property or in buildings on the
25 property is necessary.

1 2. At least 15 days before a representative goes on the property, the
2 municipality sends to the owner of record of the property a notice that a
3 representative of the municipality intends to go on the property and enter buildings
4 on the property to inspect the property and may take action to preserve and protect
5 the property. The notice shall be sent by 1st class mail to the owner's last-known
6 address and shall state the date on which the representative intends to go on the
7 property.

8 (c) 1. The municipality shall pay the cost, if any, of any action taken under this
9 subsection to preserve or protect the property or public health and safety and, except
10 as provided in subd. 2., may not seek reimbursement from the plaintiff in the
11 foreclosure action or from any former, current, or future owner of the property.

12 2. The municipality may charge the cost of any action taken under this
13 subsection in full or in part against the property, and if that cost is so charged it is
14 a lien upon the property and may be assessed and collected as a special charge.

15 **(3) ENTRY BY PLAINTIFF.** In a foreclosure action, if the court finds under s.
16 846.102 or otherwise that the property has been abandoned, at any time after
17 judgment for the plaintiff has been entered, the plaintiff, or an employee or agent of
18 or contractor with the plaintiff, may go on the property and enter any buildings on
19 the property, using such reasonable force as appears necessary, to inspect the
20 property and take any action necessary to preserve or protect the property.

21 **(4) NOTICE FROM CLERK OF COURT.** (a) At the commencement of a foreclosure
22 action, the clerk of circuit court for the county in which the action is filed shall provide
23 notice of the commencement of the action to the municipality in which the property
24 is located and to the law enforcement agency that provides primary law enforcement
25 services to the municipality in which the property is located.

1 (b) The clerk of circuit court and the municipality and law enforcement agency
2 may agree on the form of the notice and the method of delivering the notice, or the
3 clerk may provide the notice in the form and manner most convenient for the clerk,
4 which may include delivery by electronic mail.

5 (c) The notice provided under this subsection shall include the street address
6 or location of the property and the name and address of the plaintiff in the action.
7 The notice may not include the name of the owner of record of the property or the
8 name of the defendant in the action.

9 (5) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
10 a property and enter buildings on a property is immune from civil liability for acts
11 or omissions related to carrying out the powers and responsibilities under sub. (2)
12 or (3), whichever is applicable, unless the person asserting liability proves that the
13 act or omission constitutes willful misconduct.

14 (6) APPLICABILITY. (a) Subsections (2) and (3) apply to foreclosure actions that
15 are pending on, or commenced on or after, the effective date of this paragraph
16 [LRB inserts date].

17 (b) Subsection (4) applies to foreclosure actions that are commenced on or after
18 the effective date of this paragraph [LRB inserts date].

19 SECTION 2. 66.0414 of the statutes, as created by 2013 Wisconsin Act (this
20 act), is repealed.

21 SECTION 3. 943.13 (4m) (e) of the statutes is created to read:

22 943.13 (4m) (e) A person entering or remaining on the land as authorized under
23 s. 66.0414 (2) or (3).

24 SECTION 4. 943.14 of the statutes is amended to read:

Insert 4.23

1 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
 2 dwelling of another without the consent of some person lawfully upon the premises,
 3 under circumstances tending to create or provoke a breach of the peace, is guilty of
 4 a Class A misdemeanor. This section does not apply to a person entering or
 5 remaining on the land as authorized under s. 66.0414 (2) or (3).

Insert
S. 5

6 **SECTION 5.** 943.15 (1r) of the statutes is created to read:

7 **943.15 (1r)** This section does not apply to a person entering or remaining on
 8 the land as authorized under s. 66.0414 (2) or (3).

Insert
S. 6

9 **SECTION 6. Effective dates.** This act takes effect on the day after publication,
 10 except as follows:

11 (1) The repeal of section 66.0414 of the statutes ~~takes~~ ^{take} effect on the first day of
 12 the 37th month beginning after publication.

take

Insert
S. 12

(END)

13

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0296/lins
PJK&PJH:jld&wlj:rs

1 PJH INSERTS:

2 INSERT 4.23:

3 SECTION 1. 943.13 (4m) (e) of the statutes, as created by 2013 Wisconsin Act ...[ⓐ]

4 (this act), is amended to read:

5 943.13 (4m) (e) A person entering or remaining on the land as authorized under
6 s. 66.0414 (2) or (3), 2013 stats.

7 INSERT 5.5:

Create A.R. X

8 SECTION 2. 943.14 of the statutes, as affected by 2013 Wisconsin Act ... (this

9 act), is amended to read:

10 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
11 dwelling of another without the consent of some person lawfully upon the premises,
12 under circumstances tending to create or provoke a breach of the peace, is guilty of
13 a Class A misdemeanor. This section does not apply to a person entering or
14 remaining on the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

15 INSERT 5.9:

16 SECTION 3. 943.15 (1r) of the statutes, as created by 2013 Wisconsin Act/... (this

17 act), is amended to read:

18 943.15 (1r) This section does not apply to a person entering or remaining on
19 the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

20 INSERT 5.12:

21 ~~the~~ amendment of sections 943.13 (4m) (e), 943.14 (by SECTION [ⓐ]6), and 943.15

22 (1r) of the statutes, and the

Use A.R. X



rmis

**ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 625**

*now
2 changes, pp 2 & 3*

X Regen

1 **AN ACT to repeal** 66.0414; **to amend** 943.13 (4m) (e), 943.14, 943.14 and 943.15
2 (1r); and **to create** 66.0414, 943.13 (4m) (e) and 943.15 (1r) of the statutes;
3 **relating to:** entry on property in mortgage or tax foreclosure.

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

4 **SECTION 1.** 66.0414 of the statutes is created to read:

5 **66.0414 Entry on property in foreclosure. (1) DEFINITIONS.** In this section:

6 (a) "Foreclosure action" means a mortgage foreclosure action under ch. 846 or
7 an action to foreclose a tax certificate under s. 75.19.

8 (b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

9 (c) "Municipality" means a city, village, or town.

10 (d) "Property" means the premises that are the subject of a foreclosure action.

11 (e) "Representative of a utility" means a person who is employed by, an agent
12 of, or under contract with a public utility, as defined in s. 196.01 (5), or a cooperative

1 association organized under ch. 185, that provides water, electric, or natural gas
2 service to the property.

3 (f) "Representative of the municipality" means a person who is employed by, an
4 agent of, or under contract with a municipality.

5 (2) ENTRY BY MUNICIPALITY OR UTILITY. (a) At any time after the commencement
6 of a foreclosure action, a representative of the municipality in which the property is
7 located or a representative of a utility may go on the property, enter any buildings
8 on the property, using such reasonable force as appears necessary, and take any
9 action necessary to preserve or protect the property or public health and safety, if all
10 of the following apply:

11 1. The municipality has determined that the property is abandoned. The
12 municipality may use any reasonable criteria to determine whether the property is
13 abandoned, including the criteria under s. 846.102 (2) (a) to (f).

14 2. The municipality has determined that entry on the property or in buildings
15 on the property is necessary to preserve or protect the property or public health and
16 safety or to inspect the property to determine if any action is necessary to preserve
17 or protect the property or public health and safety.

18 (b) Before a representative of the municipality goes on the property, all of the
19 following must be satisfied:

20 1. The municipality files with the clerk of the circuit court for the county in
21 which the property is located an affidavit of the chief executive officer of the
22 municipality, or his or her designee, stating the basis upon which the municipality
23 has determined that the property is abandoned and the basis upon which the
24 municipality has determined that entry on the property or in buildings on the
25 property is necessary.

→ or utility ✓

1 2. At least 15 days before a representative goes on the property, the
 2 municipality sends to the owner of record of the property a notice that a
 3 representative of the municipality ^{or utility} intends to go on the property and enter buildings
 4 on the property to inspect the property and may take action to preserve and protect
 5 the property. The notice shall be sent by 1st class mail to the owner's last-known
 6 address and shall state the date on which the representative intends to go on the
 7 property.

8 (c) 1. The municipality shall pay the cost, if any, of any action taken under this
 9 subsection to preserve or protect the property or public health and safety and, except
 10 as provided in subd. 2., may not seek reimbursement from the plaintiff in the
 11 foreclosure action or from any former, current, or future owner of the property.

12 2. The municipality may charge the cost of any action taken under this
 13 subsection in full or in part against the property, and if that cost is so charged it is
 14 a lien upon the property and may be assessed and collected as a special charge.

15 (3) ENTRY BY PLAINTIFF. In a foreclosure action, if the court finds under s.
 16 846.102 or otherwise that the property has been abandoned, at any time after
 17 judgment for the plaintiff has been entered, the plaintiff, or an employee or agent of
 18 or contractor with the plaintiff, may go on the property and enter any buildings on
 19 the property, using such reasonable force as appears necessary, to inspect the
 20 property and take any action necessary to preserve or protect the property.

21 (4) NOTICE FROM CLERK OF COURT. (a) At the commencement of a foreclosure
 22 action, the clerk of circuit court for the county in which the action is filed shall provide
 23 notice of the commencement of the action to the municipality in which the property
 24 is located and to the law enforcement agency that provides primary law enforcement
 25 services to the municipality in which the property is located.

1 (b) The clerk of circuit court and the municipality and law enforcement agency
2 may agree on the form of the notice and the method of delivering the notice, or the
3 clerk may provide the notice in the form and manner most convenient for the clerk,
4 which may include delivery by electronic mail.

5 (c) The notice provided under this subsection shall include the street address
6 or location of the property and the name and address of the plaintiff in the action.
7 The notice may not include the name of the owner of record of the property or the
8 name of the defendant in the action.

9 (5) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
10 a property and enter buildings on a property is immune from civil liability for acts
11 or omissions related to carrying out the powers and responsibilities under sub. (2)
12 or (3), whichever is applicable, unless the person asserting liability proves that the
13 act or omission constitutes willful misconduct.

14 (6) APPLICABILITY. (a) Subsections (2) and (3) apply to foreclosure actions that
15 are pending on, or commenced on or after, the effective date of this paragraph
16 [LRB inserts date].

17 (b) Subsection (4) applies to foreclosure actions that are commenced on or after
18 the effective date of this paragraph [LRB inserts date].

19 **SECTION 2.** 66.0414 of the statutes, as created by 2013 Wisconsin Act (this
20 act), is repealed.

21 **SECTION 3.** 943.13 (4m) (e) of the statutes is created to read:

22 943.13 (4m) (e) A person entering or remaining on the land as authorized under
23 s. 66.0414 (2) or (3).

24 **SECTION 4.** 943.13 (4m) (e) of the statutes, as created by 2013 Wisconsin Act
25 (this act), is amended to read:

1 943.13 (4m) (e) A person entering or remaining on the land as authorized under
2 s. 66.0414 (2) or (3), 2013 stats.

3 **SECTION 5.** 943.14 of the statutes is amended to read:

4 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
5 dwelling of another without the consent of some person lawfully upon the premises,
6 under circumstances tending to create or provoke a breach of the peace, is guilty of
7 a Class A misdemeanor. This section does not apply to a person entering or
8 remaining on the land as authorized under s. 66.0414 (2) or (3).

9 **SECTION 6.** 943.14 of the statutes, as affected by 2013 Wisconsin Act (this
10 act), is amended to read:

11 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
12 dwelling of another without the consent of some person lawfully upon the premises,
13 under circumstances tending to create or provoke a breach of the peace, is guilty of
14 a Class A misdemeanor. This section does not apply to a person entering or
15 remaining on the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

16 **SECTION 7.** 943.15 (1r) of the statutes is created to read:

17 **943.15 (1r)** This section does not apply to a person entering or remaining on
18 the land as authorized under s. 66.0414 (2) or (3).

19 **SECTION 8.** 943.15 (1r) of the statutes, as created by 2013 Wisconsin Act (this
20 act), is amended to read:

21 **943.15 (1r)** This section does not apply to a person entering or remaining on
22 the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

23 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
24 except as follows:



3
MR

**ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 625**

now
(rush to
request)

X

Regen

1 AN ACT *to repeal* 66.0414; *to amend* 943.13 (4m) (e), 943.14, 943.14 and 943.15
2 (1r); and *to create* 66.0414, 943.13 (4m) (e) and 943.15 (1r) of the statutes;
3 **relating to:** entry on property in mortgage or tax foreclosure.

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

4 SECTION 1. 66.0414 of the statutes is created to read:
5 **66.0414 Entry on property in foreclosure. (1) DEFINITIONS.** In this section:
6 (a) "Foreclosure action" means a mortgage foreclosure action under ch. 846 or
7 an action to foreclose a tax certificate under s. 75.19.
8 (b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).
9 (c) "Municipality" means a city, village, or town.
10 (d) "Property" means the premises that are the subject of a foreclosure action.
11 (e) "Representative of a utility" means a person who is employed by, an agent
12 of, or under contract with a public utility, as defined in s. 196.01 (5), or a cooperative

1 association organized under ch. 185, that provides water, electric, or natural gas
2 service to the property.

3 (f) "Representative of the municipality" means a person who is employed by, an
4 agent of, or under contract with a municipality.

5 (2) ENTRY BY MUNICIPALITY OR UTILITY. (a) At any time after the commencement
6 of a foreclosure action, a representative of the municipality in which the property is
7 located or a representative of a utility may go on the property, enter any buildings
8 on the property, using such reasonable force as appears necessary, and take any
9 action necessary to preserve or protect the property or public health and safety, if all
10 of the following apply:

11 1. The municipality has determined that the property is abandoned. The
12 municipality may use any reasonable criteria to determine whether the property is
13 abandoned, including the criteria under s. 846.102 (2) (a) to (f).

14 2. The municipality has determined that entry on the property or in buildings
15 on the property is necessary to preserve or protect the property or public health and
16 safety or to inspect the property to determine if any action is necessary to preserve
17 or protect the property or public health and safety.

18 (b) Before a representative of the municipality or utility goes on the property,
19 all of the following must be satisfied:

20 1. The municipality files with the clerk of the circuit court for the county in
21 which the property is located an affidavit of the chief executive officer of the
22 municipality, or his or her designee, stating the basis upon which the municipality
23 has determined that the property is abandoned and the basis upon which the
24 municipality has determined that entry on the property or in buildings on the
25 property is necessary.

1 2. At least 15 days before a representative goes on the property, the
2 municipality sends to the owner of record of the property a notice that a
3 representative of the municipality or utility intends to go on the property and enter
4 buildings on the property to inspect the property and may take action to preserve and
5 protect the property. The notice shall be sent by 1st class mail to the owner's
6 last-known address and shall state the date on which the representative intends to
7 go on the property.

8 (c) 1. The municipality shall pay the cost, if any, of any action taken under this
9 subsection to preserve or protect the property or public health and safety and, except
10 as provided in subd. 2., may not seek reimbursement from the plaintiff in the
11 foreclosure action or from any former, current, or future owner of the property.

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13 subsection in full or in part against the property, and if that cost is so charged it is
14 a lien upon the property and may be assessed and collected as a special charge.

15 **(3) ENTRY BY PLAINTIFF.** In a foreclosure action, if the court finds under s.
16 846.102 or otherwise that the property has been abandoned, at any time after
17 judgment for the plaintiff has been entered, the plaintiff, or an employee or agent of
18 or contractor with the plaintiff, may go on the property and enter any buildings on
19 the property, using such reasonable force as appears necessary, to inspect the
20 property and take any action necessary to preserve or protect the property.

21 **(4) NOTICE FROM CLERK OF COURT.** (a) At the commencement of a foreclosure
22 action, the clerk of circuit court for the county in which the action is filed shall provide
23 notice of the commencement of the action to the municipality in which the property
24 is located and to the law enforcement agency that provides primary law enforcement
25 services to the municipality in which the property is located.

1 (b) The clerk of circuit court and the municipality and law enforcement agency
2 may agree on the form of the notice and the method of delivering the notice, or the
3 clerk may provide the notice in the form and manner most convenient for the clerk,
4 which may include delivery by electronic mail.

5 (c) The notice provided under this subsection shall include the street address
6 or location of the property and the name and address of the plaintiff in the action.
7 The notice may not include the name of the owner of record of the property or the
8 name of the defendant in the action.

9 (5) IMMUNITY FROM LIABILITY. A person authorized under sub. (2) or (3) to go on
10 a property and enter buildings on a property is immune from civil liability for acts
11 or omissions related to carrying out the powers and responsibilities under sub. (2)
12 or (3), whichever is applicable, unless the person asserting liability proves that the
13 act or omission constitutes willful misconduct recklessness ✓

14 (6) APPLICABILITY. (a) Subsections (2) and (3) apply to foreclosure actions that
15 are pending on, or commenced on or after, the effective date of this paragraph
16 [LRB inserts date].

17 (b) Subsection (4) applies to foreclosure actions that are commenced on or after
18 the effective date of this paragraph ... [LRB inserts date].

19 SECTION 2. 66.0414 of the statutes, as created by 2013 Wisconsin Act (this
20 act), is repealed.

21 SECTION 3. 943.13 (4m) (e) of the statutes is created to read:

22 943.13 (4m) (e) A person entering or remaining on the land as authorized under
23 s. 66.0414 (2) or (3).

24 SECTION 4. 943.13 (4m) (e) of the statutes, as created by 2013 Wisconsin Act
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2 s. 66.0414 (2) or (3), 2013 stats.

3 **SECTION 5.** 943.14 of the statutes is amended to read:

4 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
5 dwelling of another without the consent of some person lawfully upon the premises,
6 under circumstances tending to create or provoke a breach of the peace, is guilty of
7 a Class A misdemeanor. This section does not apply to a person entering or
8 remaining on the land as authorized under s. 66.0414 (2) or (3).

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12 dwelling of another without the consent of some person lawfully upon the premises,
13 under circumstances tending to create or provoke a breach of the peace, is guilty of
14 a Class A misdemeanor. This section does not apply to a person entering or
15 remaining on the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

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18 the land as authorized under s. 66.0414 (2) or (3).

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20 act), is amended to read:

21 **943.15 (1r)** This section does not apply to a person entering or remaining on
22 the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

23 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
24 except as follows:

Kahler, Pam

From: Knocke, Ryan
Sent: Friday, February 14, 2014 10:43 AM
To: Kahler, Pam
Subject: RE: LRB 13s0296 Topic: Municipality going on properties in tax or mortgage foreclosure

Pam-

Thank you for your expertise. Evan and I looked at this and he would like to go with the second suggestion below.
Thank you!

- Ryan

From: Kahler, Pam
Sent: Friday, February 14, 2014 9:59 AM
To: Knocke, Ryan
Subject: RE: LRB 13s0296 Topic: Municipality going on properties in tax or mortgage foreclosure

Hi, Ryan:

I'm not going to make the exact change that you suggest in 2. because it's not clear what the municipality is using the criteria for. Which would you prefer: "The municipality has determined that the property is abandoned, using the criteria under s. 846.102 (2) (a) to (f)." or "The municipality has determined that the property is abandoned. In determining whether the property is abandoned, the municipality shall use the criteria under s. 846.102 (2) (a) to (f)"?

Pam

From: Knocke, Ryan
Sent: Friday, February 14, 2014 8:38 AM
To: Kahler, Pam; Hurley, Peggy
Subject: FW: LRB 13s0296 Topic: Municipality going on properties in tax or mortgage foreclosure

Peggy and Pam-

Thank you for all of your hard work on this sub for us. Rep. Goyke spoke with Rep. Sanfelippo on the floor and there are two additional small changes then I think we are good to go.

- 1.) Please strike Page 3, lines 12, 13, and 14. That whole section that begins with "2. The municipality may charge....collected as a special charge."
- 2.) Please revise Page 2, lines 11, 12, and 13 to now read this way exactly .. "1. The municipality has determined that the property is abandoned. The municipality shall use the criteria under s. 846.102 (2) (a) to (f)."

Could these changes be made ASAP and sent back over? I will re-send the /3 jacketed version back to you. THANK YOU!

From: LRB.Legal

Sent: Thursday, February 13, 2014 1:31 PM

To: Rep.Goyke

Subject: LRB 13s0296 Topic: Municipality going on properties in tax or mortgage foreclosure

The attached proposal has been jacketed for introduction.

A copy has also been sent to:

<< File: LRB s0296_3.pdf >>



rum

**ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 625**

*today, please
by 1:30 p.m. if possible*

W Regen

1 **AN ACT to repeal** 66.0414; **to amend** 943.13 (4m) (e), 943.14, 943.14 and 943.15
2 (1r); and **to create** 66.0414, 943.13 (4m) (e) and 943.15 (1r) of the statutes;
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12 of, or under contract with a public utility, as defined in s. 196.01 (5), or a cooperative

1 association organized under ch. 185, that provides water, electric, or natural gas
2 service to the property.

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4 agent of, or under contract with a municipality.

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6 of a foreclosure action, a representative of the municipality in which the property is
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8 on the property, using such reasonable force as appears necessary, and take any
9 action necessary to preserve or protect the property or public health and safety, if all
10 of the following apply:

11 1. The municipality has determined that the property is abandoned. The
12 municipality ~~may~~ ^{shall} use any reasonable criteria to determine whether the property is
13 abandoned, including the criteria under s. 846.102 (2) (a) to (f).

14 2. The municipality has determined that entry on the property or in buildings
15 on the property is necessary to preserve or protect the property or public health and
16 safety or to inspect the property to determine if any action is necessary to preserve
17 or protect the property or public health and safety.

18 (b) Before a representative of the [✓]municipality or [✓]utility goes on the property,
19 all of the following must be satisfied:

20 1. The municipality files with the clerk of the circuit court for the county in
21 which the property is located an affidavit of the chief executive officer of the
22 municipality, or his or her designee, stating the basis upon which the municipality
23 has determined that the property is abandoned and the basis upon which the
24 municipality has determined that entry on the property or in buildings on the
25 property is necessary.

In determining whether the property is abandoned,

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2 municipality sends to the owner of record of the property a notice that a
3 representative of the municipality or utility intends to go on the property and enter
4 buildings on the property to inspect the property and may take action to preserve and
5 protect the property. The notice shall be sent by 1st class mail to the owner's
6 last-known address and shall state the date on which the representative intends to
7 go on the property.

8 (c) ¹ The municipality shall pay the cost, if any, of any action taken under this
9 subsection to preserve or protect the property or public health and safety and, except
10 as provided in subd. 2., may not seek reimbursement from the plaintiff in the
11 foreclosure action or from any former, current, or future owner of the property.

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1 (b) The clerk of circuit court and the municipality and law enforcement agency
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4 which may include delivery by electronic mail.

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13 act or omission constitutes recklessness.

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16 [LRB inserts date].

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