

2013 DRAFTING REQUEST

Bill

Received: 1/8/2014 Received By: mkunkel
Wanted: As time permits Same as LRB: -4322
For: Legislative Council - LRC By/Representing: Anne Sappenfield
May Contact: Drafter: mkunkel
Subject: Trade Regulation - other Addl. Drafters:
Extra Copies: MPG

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

Pre Topic:

No specific pre topic given

Topic:

Cancellation of roofing repair contracts

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>
/?	mkunkel 1/9/2014			_____			
/P1	mkunkel 2/21/2014	evinz 1/9/2014	rschluet 1/9/2014	_____	sbasford 1/9/2014		
/1		evinz 2/24/2014	jfrantze 2/24/2014	_____	sbasford 2/24/2014	srose 2/24/2014	

FE Sent For:

↳ Not
Needed

<END>

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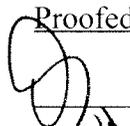
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/?	mkunkel	1/pl eev 1/9/14	1/pl eev 1/9/14	 1/10/14			

FE Sent For:

<END>

Kunkel, Mark

From: Robert C. Procter <RProcter@axley.com>
Sent: Wednesday, December 18, 2013 4:13 PM
To: Kunkel, Mark
Subject: Re: Wisconsin Stat. 100.65 (storm chaser)

No problem. Thanks

On Dec 18, 2013, at 3:54 PM, "Kunkel, Mark" <Mark.Kunkel@legis.wisconsin.gov> wrote:

Mr. Procter:

It looks like the error was created when we drafted 2011 AB 654, which was based on a Missouri law (§ 407.725 R.S.Mo.) that included the inconsistent references to days. We didn't catch it when we drafted 2011 AB 654, and that language made its way into 2013 AB 81, which was enacted as 2013 Act 24.

This type of error could be fixed in a bill by the Law Revision Committee of the Joint Legislative Council, so I've notified the council's staff.

Mark D. Kunkel
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-0131

From: Gary, Aaron
Sent: Wednesday, December 18, 2013 11:48 AM
To: Kunkel, Mark
Subject: FW: Wisconsin Stat. 100.65 (storm chaser)

Hey Mark,

This was your bill (AB-81, Act 24). Do you have any response for Mr. Procter (who I worked with for a short time at Axley)?

Aaron

From: Robert C. Procter [<mailto:RProcter@axley.com>]
Sent: Wednesday, December 18, 2013 11:26 AM
To: Gary, Aaron
Subject: Wisconsin Stat. 100.65 (storm chaser)

Hi Gary:

Hope all is well. Wis. Stat. 100.65 has a mistake in it, and since your subject is consumer protection I thought I would let you know.

The statutory "Notice of Cancellation" form under sec. 100.65(3)(b) states in the second to last sentence that the contractor has "10 business" days to refund the money. However, sec. 100.65(6) says that the contractor has "10 days" as opposed to "business days" to refund the money.

I am drafting the form notices for the Wisconsin Builders Association to use, and in the cancellation notice I dropped the word "business" so that the notice is consistent with the statutory requirements.

Let me know if you have any thoughts on it.

Thanks.

Attorney Robert C. Procter
Axley Brynerson, LLP
d: 608.283.6762 | c: 608.962.8270
RProcter@axley.com

V-CARD | WEB | MAP

2 E. Mifflin St., Ste 200 • Madison, WI 53703 • P.O. Box 1767 • 53701-1767 • Fax: 608.257.5444

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Kunkel, Mark

From: Sappenfield, Anne
Sent: Wednesday, January 08, 2014 10:27 AM
To: Kunkel, Mark
Subject: RE: Law revision committee

Hi Mark,

The law revision committee can take this up. Could you have it drafted by January 21?

Thanks!
Anne

From: Kunkel, Mark
Sent: Wednesday, December 18, 2013 3:46 PM
To: Sappenfield, Anne
Subject: Law revision committee

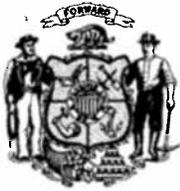
Anne:

An attorney at Axley Brynelson spotted an inconsistency in 2013 Act 24. That act created s. 100.65 (3) (b), which requires a residential contractor to provide a consumer with a form describing contract cancellation rights for certain roofing repairs. The form set forth in s. 100.65 (3) (b) says that, upon cancellation, a contractor will return any payments made by the consumer within 10 business days. However, s. 100.65 (6) requires the contractor to return the payments within 10 days, not 10 business days.

It looks like the error occurred when we drafted 2011 AB 654. That bill was based on a Missouri law that included the same inconsistency. We didn't catch it when we drafted 2011 AB 654, and the language made its way into 2013 AB 81, which was enacted as 2013 Act 24.

Is this the sort of thing that the law revision committee can address?

--Mark



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NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

by Fri 1-10
in 1-9

SAV
xref

gen cat

1 AN ACT .;. relating to: form required for certain residential repair or
2 construction contracts (suggested as remedial legislation by the Legislative
3 Reference Bureau).

TWO

Analysis by the Legislative Reference Bureau

Current law allows consumers to cancel certain contracts for repairs or construction of one-family or 2-family dwellings under specified circumstances. If work under the contract is to be paid under a property insurance policy and the insurer wholly or partially denies the consumer's claim, current law allows the consumer to cancel the contract if he or she provides a cancellation notice to the contractor before a specified deadline. Subject to an exception that applies if the contractor has performed emergency services, current law requires the contractor to return to the consumer any payments and other items within 10 days after receiving the cancellation notice. However, current law also requires the contractor to provide the consumer with a form before entering into the contract, and that form includes a statement that the contractor must return payments within 10 business days, rather than 10 days, after receiving a cancellation notice. This bill revises the form so that it refers to 10 days instead of 10 business days.

For further information, see the NOTE provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Legislative Reference Bureau and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 SECTION 1. 100.65 (3) (b) of the statutes, as created by 2013 Wisconsin Act 24,
2 is amended to read:

3 100.65 (3) (b) Furnish the consumer a completed form in duplicate that is
4 attached to the contract, is easily detachable, and contains, in boldface type of a
5 minimum size of 10 point, the following statement:

6 NOTICE OF CANCELLATION

7 If you are notified by your insurer that the claim under the property insurance
8 policy has been denied in whole or in part, you may cancel the contract by personal
9 delivery or by mailing by 1st class mail a signed and dated copy of this cancellation
10 notice or other written notice to (name of contractor) at (contractor's business
11 address) at any time before midnight on the third business day after you have
12 received the notice from your insurer. If you cancel the contract, any payments made
13 by you under the contract, except for certain emergency work already performed by
14 the contractor, will be returned to you within 10 business days following receipt by
15 the contractor of your cancellation notice.

16 I CANCEL THIS CONTRACT

17 Date

18 Customer's signature

 History: 2013 a. 24.

NOTE: Corrects the form so that it is consistent with s. 100.65 (6), which requires the return to be made within 10 days.

19

(END)



**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3932/P1dn

MDK:.....

leev

date

Anne Sappenfield:

I took the liberty of drafting a Law Revision Committee note following the revision of the form. If you want to make any changes to the note, let me know.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3932/P1dn
MDK:eev:rs

January 9, 2014

Anne Sappenfield:

I took the liberty of drafting a Law Revision Committee note following the revision of the form. If you want to make any changes to the note, let me know.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Kunkel, Mark

From: Sappenfield, Anne
Sent: Friday, February 21, 2014 3:37 PM
To: Kunkel, Mark
Subject: FW: Draft review: LRB -3932/P1 Topic: Cancellation of roofing repair contracts
Attachments: 13-3932/P1.pdf; DraftersNote1.pdf

Hi Mark,

I am ready to jacket this bill. Could you send me a /1? Also, I will need a companion bill.

Thank you,
Anne

From: LRB.Legal
Sent: Thursday, January 09, 2014 3:35 PM
To: Sappenfield, Anne
Subject: Draft review: LRB -3932/P1 Topic: Cancellation of roofing repair contracts

Following is the PDF version of draft LRB -3932/P1 and drafter's note.



1

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Soon
1/2-2/21

No changes

PF

re has been done

regen

1 AN ACT *to amend* 100.65 (3) (b) of the statutes; **relating to:** form required for
2 certain residential repair or construction contracts (suggested as remedial
3 legislation by the Legislative Reference Bureau).

Analysis by the Legislative Reference Bureau

Current law allows consumers to cancel certain contracts for repairs or construction of one-family or two-family dwellings under specified circumstances. If work under the contract is to be paid under a property insurance policy and the insurer wholly or partially denies the consumer's claim, current law allows the consumer to cancel the contract if he or she provides a cancellation notice to the contractor before a specified deadline. Subject to an exception that applies if the contractor has performed emergency services, current law requires the contractor to return to the consumer any payments and other items within 10 days after receiving the cancellation notice. However, current law also requires the contractor to provide the consumer with a form before entering into the contract, and that form includes a statement that the contractor must return payments within 10 business days, rather than 10 days, after receiving a cancellation notice. This bill revises the form so that it refers to 10 days instead of 10 business days.

For further information, see the NOTE provided by the Law Revision Committee of the Joint Legislative Council.

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

Rose, Stefanie

From: Sappenfield, Anne
Sent: Monday, February 24, 2014 11:06 AM
To: LRB.Legal
Subject: Draft Review: LRB -3932/1 Topic: Cancellation of roofing repair contracts

Please Jacket LRB -3932/1 for the SENATE.