



**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 1995 ASSEMBLY BILL 1089**

May 9, 1996 - Offered by Representatives FOTI and JOHNSRUD.

1 **AN ACT to repeal** 101.143 (3) (as), 101.143 (4) (a) 5., 144.4422 (1) (d), 144.765 (1)
2 (c) (intro.) and 2. and 144.77 (6) (d); **to renumber** 144.4422 (1) (bm), 144.765
3 (1) (c) 1., 144.765 (1) (f) (intro.), 144.765 (1) (f) 1. and 144.765 (1) (f) 3.; **to**
4 **renumber and amend** 144.765 (1) (c) 3., 144.765 (1) (f) 2., 144.765 (2) (am) and
5 144.765 (6); **to amend** 27.065 (10) (a), 27.065 (10) (a), 50.05 (15) (d), 50.05 (15)
6 (d), 66.521 (9), 66.521 (9), 70.01, 70.01, 76.13 (2), 76.13 (2), 76.22 (1), 76.22 (1),
7 76.39 (5), 76.39 (5), 88.40 (2), 88.40 (2), 101.143 (2) (e), 101.143 (3) (a) (intro.),
8 101.143 (3) (c) 4., 101.143 (3) (c) 4., 101.143 (4) (a) 7., 101.143 (4) (d) 1., 101.143
9 (4) (dm) 1., 101.143 (4) (e) 1. b. and c., 101.143 (7m), 109.09 (2), 109.09 (2),
10 144.442 (5) (f), 144.442 (9m) (title), 144.442 (9m) (b) 1., 144.442 (9m) (b) 3.,
11 144.442 (9m) (b) 4., 144.442 (9m) (b) 5. (intro.), 144.442 (9m) (b) 6. (intro.),
12 144.442 (9m) (c) 1., 144.442 (9m) (c) 2. (intro.), 144.442 (9m) (c) 2. d., 144.442
13 (9m) (c) 4., 144.442 (9m) (c) 5. (intro.), 144.442 (9m) (c) 6., 144.442 (9m) (c) 7.,
14 144.442 (9m) (c) 8. (intro.), 144.442 (9m) (e), 144.4422 (title), 144.4422 (2),
15 144.4422 (2g) (a), 144.4422 (2g) (b) (intro.), 144.4422 (2g) (c), 144.4422 (2r) (a),
16 144.4422 (2r) (b), 144.4422 (2r) (c), 144.4422 (3) (a) (intro.), 144.4422 (3) (a) 2.,

1 144.4422 (3) (a) 3., 144.4422 (3) (b), 144.4422 (3) (c), 144.4422 (3) (d), 144.4422
2 (3) (e), 144.4422 (4) (a), 144.4422 (4) (d), 144.4422 (5), 144.4422 (6) (a), 144.4422
3 (6) (b), 144.4422 (7), 144.4422 (8) (b) (intro.), 144.4422 (8) (b) 1., 144.4422 (8) (b)
4 2., 144.4422 (8) (c), 144.4422 (9) (b) 1., 144.76 (9m) (c) 1. d., 144.76 (13) (b) 1.
5 (intro.), a. and b. and 4. and (c), 144.765 (title), 144.765 (2) (a), 144.765 (2) (b)
6 (intro.), 144.765 (2) (b) 1. to 3. and (c) and (3), 144.765 (4), 144.765 (5), 214.495
7 (1), 214.495 (1), 215.21 (4) (a), 215.21 (4) (a), 292.31 (2) (f), 292.35 (7), 292.35 (9)
8 (b) 1., 292.61 (3) (b) 4., 292.61 (5), 292.81 (2) (a) (intro.), 1. and 2. and (d) and
9 (3), 703.16 (6) (e), 703.16 (6) (e), 706.11 (1) (intro.), 706.11 (1) (intro.), 707.37 (4)
10 (d), 707.37 (4) (d), 779.01 (4), 779.01 (4), 779.35, 779.35, 779.40 (1), 779.40 (1),
11 823.115 (1) and 823.115 (1); **to repeal and recreate** 144.442 (9m) (a) 1.; and
12 **to create** 101.143 (4) (a) 8., 101.143 (4) (ce), 144.4422 (1) (bm), 144.76 (9) (e) 2.
13 e., 144.765 (1) (f) (intro.), 144.765 (1) (f) 2., 144.765 (2) (am), 144.765 (2) (ar) and
14 144.765 (6) of the statutes; **relating to:** various changes to the petroleum
15 storage remedial action program, the liability of a lender or municipality for
16 property contaminated with hazardous substances, eligibility for certain
17 programs facilitating the remediation of environmental pollution and the
18 recovery of costs incurred for such remediation, recovery of costs incurred
19 removing abandoned hazardous substance containers, expanding the
20 availability of exemptions from liability for land contaminated by hazardous
21 substances, extending the time limit for emergency rule procedures, providing
22 an exemption from emergency rule procedures and granting rule-making
23 authority.

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

1 **SECTION 1.** 27.065 (10) (a) of the statutes is amended to read:

2 27.065 (10) (a) The special improvement bonds herein mentioned shall be equal
3 liens against all lots, parts of lots or parcels of land against which special
4 assessments have been made, without priority one over another, which liens shall
5 take precedence of all other claims or liens thereon, except a lien under s. 144.442
6 (9) (i), or 144.76 (13) or 144.77 (6) (d), and when issued shall transfer to the holders
7 thereof all the right, title and interest of such county in and to the assessment made
8 on account of the improvement mentioned therein and the liens thereby created,
9 with full power to enforce the collection thereof by foreclosure in the manner
10 mortgages on real estate are foreclosed. The time of redemption therefrom shall be
11 fixed by the court, and a copy of the bond foreclosed may be filed as a part of the
12 judgment roll in said action in lieu of the original thereof.

13 **SECTION 2.** 27.065 (10) (a) of the statutes, as affected by 1995 Wisconsin Acts
14 227 and ... (this act), is amended to read:

15 27.065 (10) (a) The special improvement bonds herein mentioned shall be equal
16 liens against all lots, parts of lots or parcels of land against which special
17 assessments have been made, without priority one over another, which liens shall
18 take precedence of all other claims or liens thereon, except a lien under s. 292.31 (8)
19 (i) or 292.41 (6) (d) or 292.81, and when issued shall transfer to the holders thereof
20 all the right, title and interest of such county in and to the assessment made on
21 account of the improvement mentioned therein and the liens thereby created, with
22 full power to enforce the collection thereof by foreclosure in the manner mortgages
23 on real estate are foreclosed. The time of redemption therefrom shall be fixed by the
24 court, and a copy of the bond foreclosed may be filed as a part of the judgment roll
25 in said action in lieu of the original thereof.

1 **SECTION 3.** 50.05 (15) (d) of the statutes is amended to read:

2 50.05 **(15)** (d) The lien provided by this subsection is prior to any lien or other
3 interest which originates subsequent to the filing of a petition for receivership under
4 this section, except for a construction or mechanic's lien arising out of work
5 performed with the express consent of the receiver or a lien under s. 144.442 (9) (i),
6 or 144.76 (13) or 144.77 (6) (d).

7 **SECTION 4.** 50.05 (15) (d) of the statutes, as affected by 1995 Wisconsin Acts 227
8 and ... (this act), is amended to read:

9 50.05 **(15)** (d) The lien provided by this subsection is prior to any lien or other
10 interest which originates subsequent to the filing of a petition for receivership under
11 this section, except for a construction or mechanic's lien arising out of work
12 performed with the express consent of the receiver or a lien under s. 292.31 (8) (i) ~~or~~
13 292.41 (6) (d) or 292.81.

14 **SECTION 5.** 66.521 (9) of the statutes is amended to read:

15 66.521 **(9)** PAYMENT OF TAXES. When any industrial project acquired by a
16 municipality under this section is used by a private person as a lessee, sublessee or
17 in any capacity other than owner, that person shall be subject to taxation in the same
18 amount and to the same extent as though that person were the owner of the property.
19 Taxes shall be assessed to such private person using the real property and collected
20 in the same manner as taxes assessed to owners of real property. When due, the taxes
21 shall constitute a debt due from such private person to the taxing unit and shall be
22 recoverable as provided by law, and such unpaid taxes shall become a lien against
23 the property with respect to which they were assessed, superior to all other liens,
24 except a lien under s. 144.442 (9) (i), or 144.76 (13) or 144.77 (6) (d), and shall be

1 placed on their tax roll when there has been a conveyance of the property in the same
2 manner as are other taxes assessed against real property.

3 **SECTION 6.** 66.521 (9) of the statutes, as affected by 1995 Wisconsin Acts 227
4 and ... (this act), is amended to read:

5 66.521 (9) PAYMENT OF TAXES. When any industrial project acquired by a
6 municipality under this section is used by a private person as a lessee, sublessee or
7 in any capacity other than owner, that person shall be subject to taxation in the same
8 amount and to the same extent as though that person were the owner of the property.
9 Taxes shall be assessed to such private person using the real property and collected
10 in the same manner as taxes assessed to owners of real property. When due, the taxes
11 shall constitute a debt due from such private person to the taxing unit and shall be
12 recoverable as provided by law, and such unpaid taxes shall become a lien against
13 the property with respect to which they were assessed, superior to all other liens,
14 except a lien under s. 292.31 (8) (i) ~~or 292.41 (6) (d)~~ or 292.81, and shall be placed on
15 their tax roll when there has been a conveyance of the property in the same manner
16 as are other taxes assessed against real property.

17 **SECTION 7.** 70.01 of the statutes is amended to read:

18 **70.01 General property taxes; upon whom levied.** Taxes shall be levied,
19 under this chapter, upon all general property in this state except property that is
20 exempt from taxation. Real estate taxes and personal property taxes are deemed to
21 be levied when the tax roll in which they are included has been delivered to the local
22 treasurer under s. 74.03. When so levied such taxes are a lien upon the property
23 against which they are charged. That lien is superior to all other liens, except a lien
24 under s. 144.442 (9) (i), or 144.76 (13) ~~or 144.77 (6) (d)~~, and is effective as of January
25 1 in the year when the taxes are levied. Liens of special assessments of benefits for

1 local improvements shall be in force as provided by the charter or general laws
2 applicable to the cities that make the special assessments. In this chapter, unless
3 the context requires otherwise, references to “this chapter” do not include ss. 70.37
4 to 70.395.

5 **SECTION 8.** 70.01 of the statutes, as affected by 1995 Wisconsin Acts 227 and
6 (this act), is amended to read:

7 **70.01 General property taxes; upon whom levied.** Taxes shall be levied,
8 under this chapter, upon all general property in this state except property that is
9 exempt from taxation. Real estate taxes and personal property taxes are deemed to
10 be levied when the tax roll in which they are included has been delivered to the local
11 treasurer under s. 74.03. When so levied such taxes are a lien upon the property
12 against which they are charged. That lien is superior to all other liens, except a lien
13 under s. 292.31 (8) (i) ~~or 292.41 (6) (d)~~ or 292.81, and is effective as of January 1 in
14 the year when the taxes are levied. Liens of special assessments of benefits for local
15 improvements shall be in force as provided by the charter or general laws applicable
16 to the cities that make the special assessments. In this chapter, unless the context
17 requires otherwise, references to “this chapter” do not include ss. 70.37 to 70.395.

18 **SECTION 9.** 76.13 (2) of the statutes is amended to read:

19 76.13 (2) Every tax roll upon completion shall be delivered to the state
20 treasurer and a copy of the tax roll filed with the secretary of administration. The
21 department shall notify, by certified mail, all companies listed on the tax roll of the
22 amount of tax due, which shall be paid to the department. The payment dates
23 provided for in sub. (2a) shall apply. The payment of one-fourth of the tax of any
24 company may, if the company has brought an action in the Dane county circuit court
25 under s. 76.08, be made without delinquent interest as provided in s. 76.14 any time

1 prior to the date upon which the appeal becomes final, but any part of the tax
2 ultimately required to be paid shall bear interest from the original due date to the
3 date the appeal became final at the rate of 12% per year and at 1.5% per month
4 thereafter until paid. The taxes extended against any company after the same
5 become due, with interest, shall be a lien upon all the property of the company prior
6 to all other liens, claims and demands whatsoever, except as provided in ss. 144.442
7 (9) (i), and 144.76 (13) ~~and 144.77 (6) (d)~~, which lien may be enforced in an action in
8 the name of the state in any court of competent jurisdiction against the property of
9 the company within the state as an entirety.

10 **SECTION 10.** 76.13 (2) of the statutes, as affected by 1995 Wisconsin Acts 227
11 and (this act), is amended to read:

12 76.13 (2) Every tax roll upon completion shall be delivered to the state
13 treasurer and a copy of the tax roll filed with the secretary of administration. The
14 department shall notify, by certified mail, all companies listed on the tax roll of the
15 amount of tax due, which shall be paid to the department. The payment dates
16 provided for in sub. (2a) shall apply. The payment of one-fourth of the tax of any
17 company may, if the company has brought an action in the Dane county circuit court
18 under s. 76.08, be made without delinquent interest as provided in s. 76.14 any time
19 prior to the date upon which the appeal becomes final, but any part of the tax
20 ultimately required to be paid shall bear interest from the original due date to the
21 date the appeal became final at the rate of 12% per year and at 1.5% per month
22 thereafter until paid. The taxes extended against any company after the same
23 become due, with interest, shall be a lien upon all the property of the company prior
24 to all other liens, claims and demands whatsoever, except as provided in ss. 292.31
25 (8) (i) ~~and 292.41 (6) (d)~~ and 292.81, which lien may be enforced in an action in the

1 name of the state in any court of competent jurisdiction against the property of the
2 company within the state as an entirety.

3 **SECTION 11.** 76.22 (1) of the statutes is amended to read:

4 76.22 (1) The taxes levied upon and extended against the property of any
5 company defined in s. 76.02, after the same become due, with interest thereon, shall
6 become a lien upon the property of such company within the state prior to all other
7 liens, debts, claims or demands whatsoever, except as provided in ss. 144.442 (9) (i),
8 and 144.76 (13) and 144.77 (6) (d), which lien may be enforced in an action in the
9 name of the state in any state court of competent jurisdiction against such company
10 and against the property of such company within the state. The place of the trial
11 shall not be changed from the county in which any such action is commenced, except
12 upon consent of parties.

13 **SECTION 12.** 76.22 (1) of the statutes, as affected by 1995 Wisconsin Acts 227
14 and ... (this act), is amended to read:

15 76.22 (1) The taxes levied upon and extended against the property of any
16 company defined in s. 76.02, after the same become due, with interest thereon, shall
17 become a lien upon the property of such company within the state prior to all other
18 liens, debts, claims or demands whatsoever, except as provided in ss. 292.31 (8) (i)
19 and 292.41 (6) (d) and 292.81, which lien may be enforced in an action in the name
20 of the state in any state court of competent jurisdiction against such company and
21 against the property of such company within the state. The place of the trial shall
22 not be changed from the county in which any such action is commenced, except upon
23 consent of parties.

24 **SECTION 13.** 76.39 (5) of the statutes is amended to read:

1 76.39 (5) Delinquent taxes, penalties, interest and late filing fees shall be a lien
2 upon the property of any railroad company or car line company prior to all other liens,
3 claims and demands, except as provided in ss. 144.442 (9) (i), and 144.76 (13) and
4 144.77 (6) (d), which lien may be enforced in any action in the name of the state in
5 any court of competent jurisdiction. All provisions of law for enforcing payment of
6 delinquent income or franchise taxes under ch. 71 or enforcing payment of
7 delinquent taxes based on the value of property under this chapter shall be available
8 to collection of taxes on gross receipts in this state levied under this section.

9 **SECTION 14.** 76.39 (5) of the statutes, as affected by 1995 Wisconsin Acts 227
10 and ... (this act), is amended to read:

11 76.39 (5) Delinquent taxes, penalties, interest and late filing fees shall be a lien
12 upon the property of any railroad company or car line company prior to all other liens,
13 claims and demands, except as provided in ss. 292.31 (8) (i) and ~~292.41 (6) (d)~~ and
14 292.81, which lien may be enforced in any action in the name of the state in any court
15 of competent jurisdiction. All provisions of law for enforcing payment of delinquent
16 income or franchise taxes under ch. 71 or enforcing payment of delinquent taxes
17 based on the value of property under this chapter shall be available to collection of
18 taxes on gross receipts in this state levied under this section.

19 **SECTION 15.** 88.40 (2) of the statutes is amended to read:

20 88.40 (2) From the time of recordation of the order confirming such
21 assessments for costs until they are paid, such assessments and the interest thereon
22 are a first lien upon the lands assessed and take priority over all other liens or
23 mortgages except liens for general taxes and liens under ss. 144.442 (9) (i), and
24 144.76 (13) and ~~144.77 (6) (d)~~, regardless of the priority in time of such other liens
25 or mortgages.

SECTION 16

1 **SECTION 16.** 88.40 (2) of the statutes, as affected by 1995 Wisconsin Acts 227
2 and ... (this act), is amended to read:

3 88.40 (2) From the time of recordation of the order confirming such
4 assessments for costs until they are paid, such assessments and the interest thereon
5 are a first lien upon the lands assessed and take priority over all other liens or
6 mortgages except liens for general taxes and liens under ss. 292.31 (8) (i) and 292.41
7 ~~(6) (d)~~ and 292.81, regardless of the priority in time of such other liens or mortgages.

8 **SECTION 17.** 101.143 (2) (e) of the statutes is amended to read:

9 101.143 (2) (e) The department shall promulgate rules, with an effective date
10 of no later than January 1, 1996, specifying the methods the department will use
11 under sub. (3) (ae), and (am) ~~and (as)~~ to identify the petroleum product storage
12 system or home oil tank system which discharged the petroleum product that caused
13 an area of contamination and to determine when a petroleum product discharge that
14 caused an area of contamination occurred. The department shall write the rule in
15 a way that permits a clear determination of what petroleum product contamination
16 is eligible for an award under sub. (4) after December 31, 1995.

17 **SECTION 18.** 101.143 (3) (a) (intro.) of the statutes is amended to read:

18 101.143 (3) (a) *Who may submit a claim.* (intro.) Subject to pars. (ae), and (am)
19 ~~and (as)~~, an owner or operator or a person owning a home oil tank system may submit
20 a claim to the department for an award under sub. (4) to reimburse the owner or
21 operator or the person for the eligible costs under sub. (4) (b) that the owner or
22 operator or the person incurs because of a petroleum products discharge from a
23 petroleum product storage system or home oil tank system if all of the following
24 apply:

1 **SECTION 19.** 101.143 (3) (as) of the statutes, as affected by 1995 Wisconsin Act
2 27, is repealed.

3 **SECTION 20.** 101.143 (3) (c) 4. of the statutes, as affected by 1995 Wisconsin Act
4 27, is amended to read:

5 101.143 (3) (c) 4. Receive written approval from the department of natural
6 resources or, if the discharge is covered under s. 101.144 (2) (b), from the department
7 of commerce that the remedial action activities performed under subd. 3. meet the
8 requirements of s. 144.76 unless rules promulgated by the department of natural
9 resources provide for an alternate means of certifying that the remedial action
10 activities performed under subd. 3. meet the requirements of s. 144.76.

11 **SECTION 21.** 101.143 (3) (c) 4. of the statutes, as affected by 1995 Wisconsin Acts
12 227 and ... (this act), is amended to read:

13 101.143 (3) (c) 4. Receive written approval from the department of natural
14 resources or, if the discharge is covered under s. 101.144 (2) (b), from the department
15 of commerce that the remedial action activities performed under subd. 3. meet the
16 requirements of s. 292.11 unless rules promulgated by the department of natural
17 resources provide for an alternate means of certifying that the remedial action
18 activities performed under subd. 3. meet the requirements of s. 144.76 292.11.

19 **SECTION 22.** 101.143 (4) (a) 5. of the statutes is repealed.

20 **SECTION 23.** 101.143 (4) (a) 7. of the statutes is amended to read:

21 101.143 (4) (a) 7. In any fiscal year, the department may not award more than
22 5% of the amount appropriated under s. 20.445 (1) (v) as awards for petroleum
23 product storage systems that are owned by school districts and that are used for
24 storing heating oil for consumptive use on the premises where stored and as awards
25 for home oil tank systems.

1 **SECTION 24.** 101.143 (4) (a) 8. of the statutes is created to read:

2 101.143 (4) (a) 8. If an owner or operator or person owning a home oil tank
3 system is conducting approved remedial action activities that were necessitated by
4 a petroleum product discharge from a petroleum product storage system or home oil
5 tank system and those remedial action activities have not remedied the discharge,
6 then the department may approve financial assistance under this section for
7 enhancements to the approved remedial action activities or different remedial action
8 activities that the department determines will remedy the discharge without
9 increasing the overall costs of remedying the discharge. The total amount of an
10 original award under this section plus additional financial assistance provided
11 under this subdivision is subject to the limits in pars. (d) to (e), (ei) and (em) on
12 amounts of awards.

13 **SECTION 25.** 101.143 (4) (ce) of the statutes is created to read:

14 101.143 (4) (ce) *Eligible cost; service providers.* 1. The department may
15 promulgate rules under which costs incurred because of discharges from petroleum
16 product storage systems are not eligible costs under par. (b) unless the owners or
17 operators of those petroleum product storage systems obtain service from the same
18 service provider approved by the department.

19 2. The department may promulgate rules under which the department selects
20 service providers to provide investigation or remedial action services in specified
21 areas. The rules may provide that the costs of a service for which the department
22 has selected a service provider in an area are not eligible costs under par. (b), or that
23 eligible costs are limited to the amount that the selected service provider would have
24 charged, if an owner or operator of a petroleum product storage system located in
25 that area, or a person owning a home oil tank system located in that area, uses a

1 service provider other than the service provider selected by the department to
2 perform the services.

3 **SECTION 26.** 101.143 (4) (d) 1. of the statutes is amended to read:

4 101.143 (4) (d) 1. The department shall issue an award under this paragraph
5 for a claim filed after July 31, 1987, for eligible costs, under par. (b), incurred on or
6 after August 1, 1987, and before ~~July 1, 1998~~ December 22, 2002, by the owner or
7 operator of an underground petroleum product storage tank system and for eligible
8 costs, under par. (b), incurred on or after ~~July 1, 1998~~ December 22, 2002, by the
9 owner or operator of an underground petroleum product storage tank system if the
10 petroleum product discharge on which the claim is based is confirmed and activities
11 under sub. (3) (c) or (g) are begun before ~~July 1, 1998~~ December 22, 2002.

12 **SECTION 27.** 101.143 (4) (dm) 1. of the statutes, as affected by 1995 Wisconsin
13 Act 27, is amended to read:

14 101.143 (4) (dm) 1. The department shall issue an award under this paragraph
15 for a claim for eligible costs, under par. (b), incurred on or after August 1, 1987, and
16 before ~~July 1, 1998~~ December 22, 2002, by the owner or operator of a petroleum
17 product storage system that is not an underground petroleum product storage tank
18 system and for eligible costs, under par. (b), incurred on or after ~~July 1, 1998~~
19 December 22, 2002, by the owner or operator of a petroleum product storage system
20 that is not an underground petroleum product storage tank system if the petroleum
21 product discharge on which the claim is based is confirmed and activities under sub.
22 (3) (c) or (g) are begun before ~~July 1, 1998~~ December 22, 2002.

23 **SECTION 28.** 101.143 (4) (e) 1. b. and c. of the statutes are amended to read:

24 101.143 (4) (e) 1. b. Eligible costs, under par. (b), incurred on or after ~~July 1,~~
25 ~~1998~~ December 22, 2002, by the owner or operator of a petroleum product storage

1 system that is not an underground petroleum product storage system if those costs
2 are not reimbursable under par. (dm) 1.

3 c. Eligible costs, under par. (b), incurred on or after ~~July 1, 1998~~ December 22,
4 2002, by the owner or operator of an underground petroleum product storage tank
5 system if those costs are not reimbursable under par. (d) 1.

6 **SECTION 29.** 101.143 (7m) of the statutes is amended to read:

7 101.143 **(7m)** INTERVENTION IN 3RD-PARTY ACTIONS. An owner or operator of an
8 ~~underground a~~ petroleum product storage tank system shall notify the department
9 of any action by a 3rd party against the owner or operator for compensation for bodily
10 injury or property damage caused by a petroleum products discharge from the
11 ~~underground~~ petroleum product storage tank system if the owner or operator may
12 be eligible for an award under this section. The department may intervene in any
13 action by a 3rd party against an owner or operator for compensation for bodily injury
14 or property damage caused by a petroleum products discharge from ~~an underground~~
15 a petroleum product storage tank system if the owner or operator may be eligible for
16 an award under this section for compensation awarded in the action.

17 **SECTION 30.** 109.09 (2) of the statutes is amended to read:

18 109.09 **(2)** The department, under its authority under sub. (1) to maintain
19 actions for the benefit of employes, or an employe who brings an action under s.
20 109.03 (5) shall have a lien upon all property of the employer, real or personal, located
21 in this state for the full amount of any wage claim or wage deficiency. A lien under
22 this subsection takes effect when the department or employe files a verified petition
23 claiming the lien with the clerk of the circuit court of the county in which the services
24 or some part of the services were performed pays the fee specified in s. 814.61 (5) to
25 that clerk of circuit court and serves a copy of that petition on the employer by

1 personal service in the same manner as a summons is served under s. 801.11 or by
2 certified mail with a return receipt requested. The department or employe must file
3 the petition within 2 years after the date that the wages were due. The petition shall
4 specify the nature of the claim and the amount claimed, describe the property upon
5 which the claim is made and state that the petitioner claims a lien on that property.
6 The lien shall take precedence over all other debts, judgments, decrees, liens or
7 mortgages against the employer, except a lien under s. 144.442 (9) (i), or 144.76 (13)
8 ~~or 144.77 (6) (d)~~, and may be enforced in the manner provided in ss. 779.09 to 779.12,
9 779.20 and 779.21, insofar as such provisions are applicable. The lien ceases to exist
10 if the department or the employe does not bring an action to enforce the lien within
11 the period prescribed in s. 893.44 for the underlying wage claim.

12 **SECTION 31.** 109.09 (2) of the statutes, as affected by 1995 Wisconsin Acts 227
13 and ... (this act), is amended to read:

14 109.09 (2) The department, under its authority under sub. (1) to maintain
15 actions for the benefit of employes, or an employe who brings an action under s.
16 109.03 (5) shall have a lien upon all property of the employer, real or personal, located
17 in this state for the full amount of any wage claim or wage deficiency. A lien under
18 this subsection takes effect when the department or employe files a verified petition
19 claiming the lien with the clerk of the circuit court of the county in which the services
20 or some part of the services were performed pays the fee specified in s. 814.61 (5) to
21 that clerk of circuit court and serves a copy of that petition on the employer by
22 personal service in the same manner as a summons is served under s. 801.11 or by
23 certified mail with a return receipt requested. The department or employe must file
24 the petition within 2 years after the date that the wages were due. The petition shall
25 specify the nature of the claim and the amount claimed, describe the property upon

1 which the claim is made and state that the petitioner claims a lien on that property.
2 The lien shall take precedence over all other debts, judgments, decrees, liens or
3 mortgages against the employer, except a lien under s. 292.31 (8) (i) ~~or 292.41 (6) (d)~~
4 or 292.81, and may be enforced in the manner provided in ss. 779.09 to 779.12, 779.20
5 and 779.21, insofar as such provisions are applicable. The lien ceases to exist if the
6 department or the employe does not bring an action to enforce the lien within the
7 period prescribed in s. 893.44 for the underlying wage claim.

8 **SECTION 32.** 144.442 (5) (f) of the statutes is amended to read:

9 144.442 (5) (f) Means of making the most effective use of the grant program
10 under sub. (9m) so as to encourage the greatest number of ~~political subdivisions~~ local
11 governmental units to undertake remedial action on property that they own.

12 **SECTION 33.** 144.442 (9m) (title) of the statutes is amended to read:

13 144.442 (9m) (title) ~~GRANTS TO POLITICAL SUBDIVISIONS~~ LOCAL GOVERNMENTAL
14 UNITS FOR INVESTIGATIONS AND REMEDIAL ACTION.

15 **SECTION 34.** 144.442 (9m) (a) 1. of the statutes is repealed and recreated to read:

16 144.442 (9m) (a) 1. "Local governmental unit" means a municipality, a
17 redevelopment authority created under s. 66.431 or a public official or public body
18 designated by a municipality under s. 66.435 (4).

19 **SECTION 35.** 144.442 (9m) (b) 1. of the statutes is amended to read:

20 144.442 (9m) (b) 1. The department may make investigative funding grants
21 from the appropriations under s. 20.866 (2) (tg) to ~~political subdivisions~~ local
22 governmental units for the investigation of any site or facility owned by a ~~political~~
23 ~~subdivision~~ local governmental unit in which the soil or groundwater is
24 contaminated by environmental pollution.

25 **SECTION 36.** 144.442 (9m) (b) 3. of the statutes is amended to read:

1 144.442 (9m) (b) 3. The department may not approve the application for an
2 investigative funding grant for a site or facility that is not a landfill if the ~~political~~
3 ~~subdivision~~ local governmental unit caused the environmental pollution.

4 **SECTION 37.** 144.442 (9m) (b) 4. of the statutes is amended to read:

5 144.442 (9m) (b) 4. An investigative funding grant shall equal 25% of the cost
6 of the investigation. The ~~political subdivision's~~ local governmental unit's share of the
7 costs may include contributions of equipment and labor. No ~~political subdivision~~
8 local governmental unit may receive more than 35% of the total amount of funds
9 available for investigative funding grants in any fiscal year.

10 **SECTION 38.** 144.442 (9m) (b) 5. (intro.) of the statutes is amended to read:

11 144.442 (9m) (b) 5. (intro.) If sufficient funds are not available to make
12 investigative funding grants to all ~~political subdivisions~~ local governmental units
13 that are eligible for investigative funding grants, the department shall give a higher
14 priority to investigations with the potential of leading to remedial action resulting
15 in all of the following:

16 **SECTION 39.** 144.442 (9m) (b) 6. (intro.) of the statutes is amended to read:

17 144.442 (9m) (b) 6. (intro.) A ~~political subdivision~~ local governmental unit may
18 use the investigative funding grant funds for any of the following:

19 **SECTION 40.** 144.442 (9m) (c) 1. of the statutes is amended to read:

20 144.442 (9m) (c) 1. The department may make remedial action grants from the
21 appropriations under s. 20.866 (2) (tg) to ~~political subdivisions~~ local governmental
22 units for remedial action on any site or facility owned by a ~~political subdivision~~ local
23 governmental unit in which the soil or groundwater is contaminated by
24 environmental pollution.

25 **SECTION 41.** 144.442 (9m) (c) 2. (intro.) of the statutes is amended to read:

1 144.442 (9m) (c) 2. (intro.) The department by rule shall establish the
2 application requirements and grant conditions for a remedial action grant. The
3 department shall require the ~~political subdivision~~ local governmental unit to include
4 in its application all of the following:

5 **SECTION 42.** 144.442 (9m) (c) 2. d. of the statutes is amended to read:

6 144.442 (9m) (c) 2. d. A statement of whether the ~~political subdivision~~ local
7 governmental unit intends to use the cost recovery procedure in s. 144.4422. If the
8 ~~political subdivision~~ local governmental unit indicates in its application that it
9 intends to use the cost recovery procedure in s. 144.4422, the department may not
10 approve the application for a remedial action grant until the ~~political subdivision~~
11 local governmental unit completes the procedures under s. 144.4422 (2g) and (2r).

12 **SECTION 43.** 144.442 (9m) (c) 4. of the statutes is amended to read:

13 144.442 (9m) (c) 4. The department may not approve the application for a
14 remedial action grant for a site or facility that is not a landfill if the ~~political~~
15 ~~subdivision~~ local governmental unit caused the environmental pollution.

16 **SECTION 44.** 144.442 (9m) (c) 5. (intro.) of the statutes is amended to read:

17 144.442 (9m) (c) 5. (intro.) The department shall require the ~~political~~
18 ~~subdivision~~ local governmental unit to do all of the following as a condition of
19 receiving a remedial action grant:

20 **SECTION 45.** 144.442 (9m) (c) 6. of the statutes is amended to read:

21 144.442 (9m) (c) 6. Upon reviewing the application, if the department
22 determines that the ~~political subdivision~~ local governmental unit is eligible to
23 receive a remedial action grant and that funds are available to make a remedial
24 action grant, it shall notify the ~~political subdivision~~ local governmental unit.

25 **SECTION 46.** 144.442 (9m) (c) 7. of the statutes is amended to read:

1 144.442 (9m) (c) 7. A remedial action grant shall equal 25% of the eligible costs
2 of the remedial action. The ~~political subdivision's~~ local governmental unit's share of
3 the costs may include contributions of equipment and labor. No ~~political subdivision~~
4 local governmental unit may receive more than 35% of the total amount of funds
5 allocated for remedial action grants in any fiscal year.

6 **SECTION 47.** 144.442 (9m) (c) 8. (intro.) of the statutes is amended to read:

7 144.442 (9m) (c) 8. (intro.) If sufficient funds are not available to make
8 remedial action grants to all ~~political subdivisions~~ local governmental units that are
9 eligible for remedial action grants, the department shall give a higher priority to
10 remedial actions that will result in all of the following:

11 **SECTION 48.** 144.442 (9m) (e) of the statutes is amended to read:

12 144.442 (9m) (e) *Subrogation.* The state is subrogated to the rights of a
13 ~~political subdivision~~ local governmental unit that obtains an award under this
14 section in an amount equal to the award. All moneys recovered under this paragraph
15 shall be credited to the environmental fund for environmental repair.

16 **SECTION 49.** 144.4422 (title) of the statutes is amended to read:

17 **144.4422** (title) ~~Political subdivision~~ Local governmental unit
18 **negotiation and cost recovery.**

19 **SECTION 50.** 144.4422 (1) (bm) of the statutes is created to read:

20 144.4422 (1) (bm) "Local governmental unit" means a municipality, a
21 redevelopment authority created under s. 66.431 or a public officer or public body
22 designated by a municipality under s. 66.435 (4).

23 **SECTION 51.** 144.4422 (1) (bm) of the statutes, as created by 1995 Wisconsin Act
24 (this act), is renumbered 292.35 (1) (bm).

25 **SECTION 52.** 144.4422 (1) (d) of the statutes is repealed.

1 **SECTION 53.** 144.4422 (2) of the statutes is amended to read:

2 144.4422 **(2)** APPLICABILITY. This section only applies to a site or facility if the
3 site or facility is owned by a ~~political subdivision~~ local governmental unit. This
4 section does not apply to a landfill until January 1, 1996.

5 **SECTION 54.** 144.4422 (2g) (a) of the statutes is amended to read:

6 144.4422 **(2g)** (a) A ~~political subdivision~~ local governmental unit that intends
7 to use the cost recovery procedures in this section shall attempt to identify all
8 responsible parties. All information obtained by the ~~political subdivision~~ local
9 governmental unit regarding responsible parties is a public record and may be
10 inspected and copied under s. 19.35.

11 **SECTION 55.** 144.4422 (2g) (b) (intro.) of the statutes is amended to read:

12 144.4422 **(2g)** (b) (intro.) Upon the request of an employe or authorized
13 representative of the ~~political subdivision~~ local governmental unit, or pursuant to a
14 special inspection warrant under s. 66.122, any person who generated, transported,
15 treated, stored or disposed of a hazardous substance that may have been disposed
16 of or discharged at the site or facility or who is or was an owner or operator shall
17 provide the employe or authorized representative access to any records or documents
18 in that person's custody, possession or control that relate to all of the following:

19 **SECTION 56.** 144.4422 (2g) (c) of the statutes is amended to read:

20 144.4422 **(2g)** (c) The ~~political subdivision~~ local governmental unit shall
21 maintain a single repository that is readily accessible to the public for all documents
22 related to responsible parties, the investigation, the remedial action and plans for
23 redevelopment of the property.

24 **SECTION 57.** 144.4422 (2r) (a) of the statutes is amended to read:

1 144.4422 (2r) (a) The ~~political subdivision~~ local governmental unit shall, in
2 consultation with the department, prepare a draft remedial action plan.

3 **SECTION 58.** 144.4422 (2r) (b) of the statutes is amended to read:

4 144.4422 (2r) (b) Upon completion of the draft remedial action plan, the
5 ~~political subdivision~~ local governmental unit shall send written notice to all
6 responsible parties identified by the ~~political subdivision~~ local governmental unit,
7 provide public notice and conduct a public hearing on the draft remedial action plan.
8 The notice to responsible parties shall offer the person receiving the notice an
9 opportunity to provide information regarding the status of that person or any other
10 person as a responsible party, notice and a description of the public hearing and a
11 description of the procedures in this section. At the public hearing, the ~~political~~
12 ~~subdivision~~ local governmental unit shall solicit testimony on whether the draft
13 remedial action plan is the least costly method of meeting the standards for remedial
14 action promulgated by the department by rule. The ~~political subdivision~~ local
15 governmental unit shall accept written comments for at least 30 days after the close
16 of the public hearing.

17 **SECTION 59.** 144.4422 (2r) (c) of the statutes is amended to read:

18 144.4422 (2r) (c) Upon the conclusion of the period for written comment, the
19 ~~political subdivision~~ local governmental unit shall prepare a preliminary remedial
20 action plan, taking into account the written comments and comments received at the
21 public hearing and shall submit the preliminary remedial action plan to the
22 department for approval. The department may approve the preliminary remedial
23 action plan as submitted or require modifications.

24 **SECTION 60.** 144.4422 (3) (a) (intro.) of the statutes is amended to read:

1 144.4422 (3) (a) (intro.) Upon receiving the department's approval of the
2 preliminary remedial action plan, the ~~political subdivision~~ local governmental unit
3 shall serve an offer to settle regarding the contribution of funds for investigation and
4 remedial action at the site or facility on each of the responsible parties identified by
5 the ~~political subdivision~~ local governmental unit, using the procedure for service of
6 a summons under s. 801.11 and shall notify the department that the offer to settle
7 has been served. The ~~political subdivision~~ local governmental unit shall include in
8 the offer to settle all of the following information:

9 **SECTION 61.** 144.4422 (3) (a) 2. of the statutes is amended to read:

10 144.4422 (3) (a) 2. The names, addresses and contact persons, to the extent
11 known, for all of the responsible parties identified by the ~~political subdivision~~ local
12 governmental unit.

13 **SECTION 62.** 144.4422 (3) (a) 3. of the statutes is amended to read:

14 144.4422 (3) (a) 3. The location and availability of documents that support the
15 claim of the ~~political subdivision~~ local governmental unit against the responsible
16 party.

17 **SECTION 63.** 144.4422 (3) (b) of the statutes is amended to read:

18 144.4422 (3) (b) The department shall maintain a list of competent and
19 disinterested umpires qualified to perform the duties under subs. (4) to (6). None of
20 the umpires may be employes of the department. Upon receiving notice from a
21 ~~political subdivision~~ local governmental unit under par. (a), the secretary or his or
22 her designee shall select an umpire from the list and inform the ~~political subdivision~~
23 local governmental unit and responsible parties of the person selected.

24 **SECTION 64.** 144.4422 (3) (c) of the statutes is amended to read:

1 144.4422 (3) (c) Within 10 days after receiving notice of the umpire selected by
2 the department under par. (b), the ~~political subdivision~~ local governmental unit may
3 notify the department that the umpire selected is unacceptable. Within 10 days after
4 receiving notice of the umpire selected by the department under par. (b), a
5 responsible party may notify the department that the umpire selected is
6 unacceptable or that the responsible party does not intend to participate in the
7 negotiation. Failure to notify the department that the umpire is unacceptable shall
8 be considered acceptance. If all responsible parties identified by the ~~political~~
9 ~~subdivision~~ local governmental unit indicate that they do not intend to participate
10 in the negotiation, the department shall inform the ~~political subdivision~~ local
11 governmental unit and the ~~political subdivision~~ local governmental unit shall cease
12 further action under this section.

13 **SECTION 65.** 144.4422 (3) (d) of the statutes is amended to read:

14 144.4422 (3) (d) Upon receiving notice under par. (c) that the selected umpire
15 is unacceptable, the secretary or his or her designee shall select 5 additional umpires
16 from the list and inform the ~~political subdivision~~ local governmental unit and
17 responsible parties of the persons selected.

18 **SECTION 66.** 144.4422 (3) (e) of the statutes is amended to read:

19 144.4422 (3) (e) Within 10 days after receiving notice of the umpires selected
20 by the department under par. (d), the ~~political subdivision~~ local governmental unit
21 or a responsible party may notify the department that one or more of the umpires
22 selected are unacceptable. Failure to notify the department shall be considered
23 acceptance. The secretary or his or her designee shall select an umpire from among
24 those umpires not identified as unacceptable by the ~~political subdivision~~ local
25 governmental unit or a responsible party or, if all umpires are identified as

1 unacceptable, the secretary or his or her designee shall designate a person to be
2 umpire for the negotiation.

3 **SECTION 67.** 144.4422 (4) (a) of the statutes is amended to read:

4 144.4422 (4) (a) The umpire, immediately upon being appointed, shall contact
5 the department, the ~~political subdivision~~ local governmental unit and the
6 responsible parties that received the offer to settle and shall schedule the negotiating
7 sessions. The umpire shall schedule the first negotiating session no later than 20
8 days after being appointed. The umpire may meet with all parties to the negotiation,
9 individual parties or groups of parties. The umpire shall facilitate a discussion
10 between the ~~political subdivision~~ local governmental unit and the responsible
11 parties to attempt to reach an agreement on the design and implementation of the
12 remedial action plan and the contribution of funds by the ~~political subdivision~~ local
13 governmental unit and responsible parties.

14 **SECTION 68.** 144.4422 (4) (d) of the statutes is amended to read:

15 144.4422 (4) (d) The ~~political subdivision~~ local governmental unit and the
16 responsible parties that participate in negotiations shall pay for the costs of the
17 umpire, whether or not an agreement among the parties is reached under sub. (5) or
18 the parties accept the recommendation of the umpire under sub. (6). The umpire
19 shall determine an equitable manner of paying for the costs of the umpire, which is
20 binding.

21 **SECTION 69.** 144.4422 (5) of the statutes is amended to read:

22 144.4422 (5) AGREEMENT IN NEGOTIATION. The ~~political subdivision~~ local
23 governmental unit and any of the responsible parties may enter into any agreement
24 in negotiation regarding the design and implementation of the remedial action plan
25 and the contribution of funds by the ~~political subdivision~~ local governmental unit and

1 responsible parties for the investigation and remedial action. The portion of the
2 agreement containing the design and implementation of the remedial action plan
3 shall be submitted to the department for approval. The department may approve
4 that portion of the agreement as submitted or require modifications.

5 **SECTION 70.** 144.4422 (6) (a) of the statutes is amended to read:

6 144.4422 (6) (a) If the ~~political subdivision~~ local governmental unit and any
7 responsible parties are unable to reach an agreement under sub. (5) by the end of the
8 period of negotiation, the umpire shall make a recommendation regarding the design
9 and implementation of the remedial action plan and the contribution of funds for
10 investigation and remedial action by the ~~political subdivision~~ local governmental
11 unit and all responsible parties that were identified by the ~~political subdivision~~ local
12 governmental unit and that did not reach an agreement under sub. (5), whether or
13 not the responsible parties participated in negotiations under sub. (4). The umpire
14 shall submit the recommendation to the department for its approval within 20 days
15 after the end of the period of negotiation under sub. (4) (c). The department may
16 approve the recommendation as submitted or require modifications. The umpire
17 shall distribute a copy of the approved recommendation to the ~~political subdivision~~
18 local governmental unit and all responsible parties identified by the ~~political~~
19 subdivision local governmental unit.

20 **SECTION 71.** 144.4422 (6) (b) of the statutes is amended to read:

21 144.4422 (6) (b) The ~~political subdivision~~ local governmental unit and the
22 responsible parties that did not reach an agreement under sub. (5) shall accept or
23 reject the umpire's recommendation within 60 days after receiving it. Failure to
24 accept or reject the recommendation within 60 days shall be considered rejection of
25 the recommendation. If the ~~political subdivision~~ local governmental unit rejects the

1 recommendation with respect to any responsible party, the recommendation does not
2 apply to that responsible party. If a responsible party rejects the recommendation,
3 it does not apply to that responsible party.

4 **SECTION 72.** 144.4422 (7) of the statutes is amended to read:

5 144.4422 (7) RESPONSIBLE PARTIES SUBJECT TO AN AGREEMENT OR
6 RECOMMENDATION. A responsible party that enters into an agreement under sub. (5)
7 with a ~~political subdivision~~ local governmental unit or that accepts the umpire's
8 recommendation under sub. (6), if the ~~political subdivision~~ local governmental unit
9 does not reject the recommendation, is required to comply with the agreement or
10 recommendation. When the responsible party has complied with the agreement or
11 recommendation, the responsible party is not liable to the state, including under s.
12 144.442 (9) or 144.76 (7) (b), or to the ~~political subdivision~~ local governmental unit
13 for any additional costs of the investigation or remedial action; the responsible party
14 is not liable to any other responsible party for contribution to costs incurred by any
15 other responsible party for the investigation or remedial action; and the responsible
16 party is not subject to an order under s. 144.76 (7) (c) for the discharge that is the
17 subject of the agreement or recommendation.

18 **SECTION 73.** 144.4422 (8) (b) (intro.) of the statutes is amended to read:

19 144.4422 (8) (b) (intro.) A ~~political subdivision~~ local governmental unit is
20 entitled to recover litigation expenses and interest on the judgment against a
21 responsible party if any of the following occurs:

22 **SECTION 74.** 144.4422 (8) (b) 1. of the statutes is amended to read:

23 144.4422 (8) (b) 1. The ~~political subdivision~~ local governmental unit accepts the
24 recommendation of an umpire under sub. (6), the responsible party rejects it and the
25 ~~political subdivision~~ local governmental unit recovers a judgment under sub. (9)

1 against that responsible party that equals or exceeds the amount of the umpire's
2 recommendation.

3 **SECTION 75.** 144.4422 (8) (b) 2. of the statutes is amended to read:

4 144.4422 (8) (b) 2. The ~~political subdivision~~ local governmental unit and the
5 responsible party enter into an agreement under sub. (5) or accept the umpire's
6 recommendation under sub. (6), the responsible party does not comply with the
7 requirements of the agreement or recommendation and the ~~political subdivision~~
8 local governmental unit recovers a judgment against that responsible party based
9 on the agreement or recommendation.

10 **SECTION 76.** 144.4422 (8) (c) of the statutes is amended to read:

11 144.4422 (8) (c) A responsible party is entitled to recover litigation expenses
12 from a ~~political subdivision~~ local governmental unit if the responsible party accepts
13 the recommendation of an umpire under sub. (6), the ~~political subdivision~~ local
14 governmental unit rejects the recommendation of the umpire under sub. (6) with
15 respect to the responsible party, the ~~political subdivision~~ local governmental unit
16 institutes an action under sub. (9) against the responsible party and the ~~political~~
17 ~~subdivision~~ local governmental unit recovers a judgment under sub. (9) against the
18 responsible party that is equal to or less than the amount of the umpire's
19 recommendation.

20 **SECTION 77.** 144.4422 (9) (b) 1. of the statutes is amended to read:

21 144.4422 (9) (b) 1. Except as provided in pars. (bm), (br) and (e), sub. (7) and
22 s. 144.76 (9m) and (9s), a responsible party is liable for a portion of the costs, as
23 determined under pars. (c) to (e), incurred by a ~~political subdivision~~ local
24 governmental unit for remedial action in an agreement under sub. (5) or a
25 recommendation under sub. (6) and for any related investigation. A right of action

1 shall accrue to a ~~political subdivision~~ local governmental unit against the
2 responsible party for costs listed in this subdivision.

3 **SECTION 78.** 144.76 (9) (e) 2. e. of the statutes is created to read:

4 144.76 (9) (e) 2. e. A failure of the municipality to take action, as directed by
5 the department, with respect to public health, safety or welfare concerns associated
6 with the property, if the municipality proposes to use or develop the property without
7 taking the actions required under sub. (3).

8 **SECTION 79.** 144.76 (9m) (c) 1. d. of the statutes is amended to read:

9 144.76 (9m) (c) 1. d. The lender conducts an environmental assessment of the
10 real property in accordance with subd. 2. at any time, but not more than 90 days after
11 the date the lender acquires title to, or possession or control of, the real property, and
12 files a complete copy of the environmental assessment with the department not more
13 than 180 days after the date the lender acquires title to, or possession or control of,
14 the real property. If the environmental assessment is conducted before the date that
15 the lender acquires title to, or possession or control of, the real property, the lender
16 shall have a visual inspection of the property performed as provided in subd. 2. a. and
17 b. after that date to verify the environmental assessment, and shall submit the
18 results of both the visual inspection and the environmental assessment to the
19 department. If the environmental assessment is conducted more than one year
20 before the date that the lender acquires title to, or possession or control of, the real
21 property, the department shall review the environmental assessment and shall
22 either determine that the environmental assessment is adequate or direct the lender
23 to address any inadequacies in the environmental assessment. The exemption under
24 this subdivision does not apply unless the department determines that the lender

1 has satisfactorily corrected the inadequacies, if any, of an environmental assessment
2 reviewed under this subd. l. d.

3 **SECTION 80.** 144.76 (13) (b) 1. (intro.), a. and b. and 4. and (c) of the statutes are
4 amended to read:

5 144.76 **(13)** (b) 1. (intro.) Before incurring expenses under this section or s.
6 144.442 (4), (6) or (8) ~~or 144.77 (4)~~ with respect to a property, the department shall
7 provide to the current owner of the property and to any mortgagees of record a notice
8 containing all of the following:

9 a. A brief description of the property for which the department expects to incur
10 expenses under this section or s. 144.442 (4), (6) or (8) ~~or 144.77 (4)~~.

11 b. A brief description of the types of activities that the department expects may
12 be conducted at the property under this section or s. 144.442 (4), (6) or (8) ~~or 144.77~~
13 ~~(4)~~.

14 4. No notice under this paragraph is necessary in circumstances in which entry
15 onto the property without prior notice is authorized under sub. (8) ~~or under s. 144.77~~
16 ~~(5)~~.

17 (c) Any expenditures made by the department under this section, ~~under or~~ or s.
18 144.442 (4), (6) or (8) ~~or, subject to s. 144.77 (6) (d), under s. 144.77 (4)~~ shall constitute
19 a lien upon the property for which expenses are incurred if the department files the
20 lien with the register of deeds in the county in which the property is located. A lien
21 under this subsection shall be superior to all other liens that are or have been filed
22 against the property, except that if the property is residential property, as defined in
23 s. 895.52 (1) (i), the lien may not affect any valid prior lien on that residential
24 property.

25 **SECTION 81.** 144.765 (title) of the statutes is amended to read:

1 **144.765** (title) ~~Remediated property; purchaser~~ Voluntary party
2 remediation and exemption from liability.

3 **SECTION 82.** 144.765 (1) (c) (intro.) and 2. of the statutes are repealed.

4 **SECTION 83.** 144.765 (1) (c) 1. of the statutes is renumbered 144.765 (1) (f) 3.

5 **SECTION 84.** 144.765 (1) (c) 3. of the statutes is renumbered 144.765 (1) (f) 1.

6 and amended to read:

7 **144.765 (1) (f) 1.** The person did not otherwise cause the release of a hazardous
8 substance on the property.

9 **SECTION 85.** 144.765 (1) (f) (intro.) of the statutes is created to read:

10 **144.765 (1) (f) (intro.)** “Voluntary party” means a person who owns property on
11 which a hazardous substance has been discharged and to whom all of the following
12 apply:

13 **SECTION 86.** 144.765 (1) (f) (intro.) of the statutes, as created by 1995 Wisconsin
14 Act (this act), is renumbered 292.15 (1) (f) (intro.).

15 **SECTION 87.** 144.765 (1) (f) 1. of the statutes, as affected by 1995 Wisconsin Act
16 (this act), is renumbered 292.15 (1) (f) 1.

17 **SECTION 88.** 144.765 (1) (f) 2. of the statutes is created to read:

18 **144.765 (1) (f) 2.** The person is not required to possess a license issued under
19 s. 144.64 (2) for any activity at the property, other than environmental response
20 work.

21 **SECTION 89.** 144.765 (1) (f) 2. of the statutes, as created by 1995 Wisconsin Act
22 (this act), is renumbered 292.15 (1) (f) 2. and amended to read:

23 **292.15 (1) (f) 2.** The person is not required to possess a license issued under s.
24 ~~144.64 (2)~~ 291.25 for any activity at the property, other than environmental response
25 work.

1 **SECTION 90.** 144.765 (1) (f) 3. of the statutes, as affected by 1995 Wisconsin Act
2 (this act), is renumbered 292.15 (1) (f) 3.

3 **SECTION 91.** 144.765 (2) (a) of the statutes is amended to read:

4 144.765 (2) (a) ~~A purchaser~~ Except as provided in sub. (6), a voluntary party
5 is exempt from the provisions of ~~s. ss. 144.64 (2m), 144.735 (2) and 144.76 (3), (4) and~~
6 (7) (b) and (c) with respect to the existence of a hazardous substance on ~~the~~ property
7 ~~the release of which occurred prior to the date of acquisition of the property, if all of~~
8 ~~the following occur at any time before or after the date of acquisition:~~

9 1. ~~The purchaser conducts a~~ A thorough environmental investigation of the
10 property is conducted that is approved by the department ~~or the person from whom~~
11 ~~the purchaser acquires the property conducts a thorough environmental~~
12 ~~investigation of the property under a contract with the purchaser and the~~
13 ~~investigation is approved by the department.~~

14 2. ~~Except as provided in sub. (4), the purchaser cleans up the~~ The property is
15 cleaned up by restoring the environment to the extent practicable and minimizing
16 the harmful effects from a release discharge of a the hazardous substance in
17 accordance with rules ~~promulgated~~ identified, by rule, by the department and any
18 contract entered into under those rules.

19 3. ~~The purchaser~~ voluntary party obtains a ~~certification~~ certificate of
20 completion from the department that the property has been satisfactorily restored
21 to the extent practicable and that the harmful effects from a release discharge of a
22 hazardous substance have been minimized.

23 4. ~~The purchaser~~ voluntary party maintains and monitors the property as
24 required under rules ~~promulgated~~ identified, by rule, by the department and any
25 contract entered into under those rules.

SECTION 91

1 5. The ~~purchaser~~ voluntary party does not engage in activities that are
2 inconsistent with the maintenance of the property.

3 6. The ~~purchaser~~ voluntary party has not obtained the certification under subd.
4 3. by fraud or misrepresentation, by the knowing failure to disclose material
5 information or under circumstances in which the ~~purchaser~~ voluntary party knew
6 or should have known about more ~~environmental pollution~~ discharges of hazardous
7 substances than ~~was~~ were revealed by the investigation conducted under subd. 1.

8 **SECTION 92.** 144.765 (2) (am) of the statutes is created to read:

9 144.765 (2) (am) The department may approve a partial cleanup and issue a
10 certificate of partial completion in the manner provided in par. (a). A certificate of
11 partial completion shall state that not all of the property has been satisfactorily
12 restored or that not all of the harmful effects from a discharge of a hazardous
13 substance have been minimized at the time the certificate is issued. Approval of a
14 partial cleanup exempts a voluntary party from the provisions of ss. 144.64 (2m),
15 144.735 (2) and 144.76 (3), (4) and (7) (b) and (c) only with respect to the portion of
16 the property or hazardous substances cleaned up under this paragraph. In addition
17 to meeting the requirements of par. (a), a certificate for a partial cleanup under this
18 paragraph may be issued only if:

19 1. Public health, safety, welfare or the environment, on or off the property, will
20 not be endangered by any hazardous substances remaining on the property after the
21 partial cleanup, given the manner in which the property will be developed and used
22 and any other factors that the department considers relevant to the endangerment
23 of public health, safety, welfare or the environment.

24 1m. A thorough environmental investigation of the property is conducted that
25 is approved by the department.

1 2. The activities associated with any proposed use or development of the
2 property will not aggravate or contribute to the discharge of a hazardous substance
3 and will not unduly interfere with, or increase the costs of, restoring the property and
4 minimizing the harmful effects of the discharge of a hazardous substance.

5 **SECTION 93.** 144.765 (2) (am) of the statutes, as created by 1995 Wisconsin Act
6 (this act), is renumbered 292.15 (2) (am), and 292.15 (2) (am) (intro.), as
7 renumbered, is amended to read:

8 292.15 (2) (am) (intro.) The department may approve a partial cleanup and
9 issue a certificate of completion as provided in par. (a) that states that not all of the
10 property has been satisfactorily restored or that not all of the harmful effects from
11 a discharge of a hazardous substance have been minimized. Approval of a partial
12 cleanup exempts a voluntary party from the provisions of ss. ~~144.64 (2m), 144.735~~
13 291.29, 291.37 (2) and ~~144.76~~ 292.11 (3), (4) and (7) (b) and (c) only with respect to
14 the portion of the property or hazardous substances cleaned up under this
15 paragraph. In addition to meeting the requirements of par. (a), a certificate for a
16 partial cleanup under this paragraph may be issued only if:

17 **SECTION 94.** 144.765 (2) (ar) of the statutes is created to read:

18 144.765 (2) (ar) As determined necessary by the department, the department
19 may require the owner of the property to grant access, an easement or other interest
20 in the property for any of the purposes specified in par. (am) as a condition of issuing
21 a certificate under par. (am).

22 **SECTION 95.** 144.765 (2) (b) (intro.) of the statutes is amended to read:

23 144.765 (2) (b) (intro.) The ~~exemption~~ exemptions provided in ~~par.~~ pars. (a)
24 ~~continues~~ and (am) continue to apply after the date of certification by the department

1 under par. (a) 3., or approval by the department under par. (am), notwithstanding
2 the occurrence of any of the following:

3 **SECTION 96.** 144.765 (2) (b) 1. to 3. and (c) and (3) of the statutes are amended
4 to read:

5 144.765 (2) (b) 1. Statutes, rules or regulations are created or amended that
6 would impose greater responsibilities on the ~~purchaser~~ voluntary party than those
7 imposed under par. (a) 2.

8 2. The ~~purchaser~~ voluntary party fully complies with the rules promulgated
9 identified, by rule, by the department and any contract entered into under those
10 rules under par. (a) 2. but it is discovered that the cleanup fails to fully restore the
11 environment and minimize the effects from a ~~release~~ discharge of a hazardous
12 substance.

13 3. The contamination from a hazardous substance that is the subject of the
14 cleanup under par. (a) 2. is discovered to be more extensive than anticipated by the
15 ~~purchaser~~ voluntary party and the department.

16 (c) The department of justice may not commence an action under 42 USC 9607
17 against any ~~purchaser~~ voluntary party meeting the criteria of this subsection to
18 recover costs for which the ~~purchaser~~ voluntary party is exempt under pars. (a), ~~(am)~~
19 and (b).

20 (3) SUCCESSORS AND ASSIGNS. The exemption provided in sub. (2) applies to any
21 successor or assignee of the ~~purchaser~~ voluntary party who qualifies as a voluntary
22 party and who complies with the provisions of sub. (2) (a) 4. and 5., unless the
23 successor or assignee knows that a ~~certification~~ certificate under sub. (2) (a) 3. or
24 (am) was obtained by any of the means or under any of the circumstances specified
25 in sub. (2) (a) 6.

1 **SECTION 97.** 144.765 (4) of the statutes, as affected by 1995 Wisconsin Act 225,
2 is amended to read:

3 144.765 (4) LIMITED RESPONSIBILITY. The responsibility of a ~~purchaser~~ voluntary
4 party under sub. (2) (a) 2. may be monetarily limited by agreement between the
5 ~~purchaser~~ voluntary party and the department if the ~~purchaser~~ voluntary
6 party acquired the property from a municipality that acquired the property in a way
7 described in s. 144.76 (9) (e) 1m. a. or b. The agreement shall stipulate all of the
8 following:

9 (a) That the ~~purchaser~~ voluntary party may cease the cleanup when the cost
10 of the cleanup equals 125% of the anticipated expense of the cleanup.

11 (b) That the ~~purchaser~~ voluntary party will continue to receive the benefit of
12 the exemption under sub. (2) (a) after cessation of the cleanup if the ~~purchaser~~
13 voluntary party complies with sub. (2) (a) 4. and 5.

14 (c) That, if the ~~purchaser~~ voluntary party ceases the cleanup, the ~~purchaser~~
15 voluntary party shall use reasonable efforts to sell the property in accordance with
16 rules of the department that define “reasonable efforts” in a manner substantively
17 equivalent to 40 CFR 300.1100 (d) (2) (i).

18 **SECTION 98.** 144.765 (5) of the statutes is amended to read:

19 144.765 (5) FEES. The department may, in accordance with rules that it
20 promulgates, assess and collect fees from a ~~purchaser~~ voluntary party to offset the
21 cost of the department’s activities under subs. (2) and (4). The fees may include an
22 advance deposit, from which the department shall return the amount in excess of the
23 cost of the department’s activities under subs. (2) and (4).

24 **SECTION 99.** 144.765 (6) of the statutes is created to read:

1 144.765 (6) LIMITATIONS. (a) This section does not exempt property from any
2 lien filed under s. 144.76 (13) (c) for costs incurred by the department prior to the date
3 that certification is issued under sub. (2) (a) 3.

4 (b) The exemption under this section does not apply with respect to any
5 hazardous substance that is discharged on the property after the date that a
6 certificate is issued under sub. (2) (a) 3. or (am).

7 **SECTION 100.** 144.765 (6) of the statutes, as created by 1995 Wisconsin Act ...
8 (this act), is renumbered 292.15 (6) and 292.15 (6) (a), as renumbered, is amended
9 to read:

10 292.15 (6) (a) This section does not exempt property from any lien filed under
11 s. ~~144.76 (13) (e)~~ 292.81 (3) for costs incurred by the department prior to the date that
12 certification is issued under sub. (2) (a) 3.

13 **SECTION 101.** 144.77 (6) (d) of the statutes is repealed.

14 **SECTION 102.** 214.495 (1) of the statutes is amended to read:

15 214.495 (1) A mortgage taken and recorded by a savings bank shall have
16 priority over all liens, except tax and special assessment liens and liens under ss.
17 144.442 (9) (i), and 144.76 (13) ~~and 144.77 (6) (d)~~, upon the mortgaged premises and
18 the buildings and improvements thereon, that are filed after the recording of the
19 mortgage.

20 **SECTION 103.** 214.495 (1) of the statutes, as affected by 1995 Wisconsin Acts
21 227 and ... (this act), is amended to read:

22 214.495 (1) A mortgage taken and recorded by a savings bank shall have
23 priority over all liens, except tax and special assessment liens and liens under ss.
24 292.31 (8) (i) ~~and 292.41 (6) (d)~~ and 292.81, upon the mortgaged premises and the

1 buildings and improvements thereon, that are filed after the recording of the
2 mortgage.

3 **SECTION 104.** 215.21 (4) (a) of the statutes is amended to read:

4 215.21 (4) (a) All mortgages described in this section shall have priority over
5 all liens, except tax and special assessment liens and liens under ss. 144.442 (9) (i),
6 and 144.76 (13) and 144.77 (6) (d), upon the mortgaged premises and the buildings
7 and improvements thereon, which shall be filed subsequent to the recording of such
8 mortgage.

9 **SECTION 105.** 215.21 (4) (a) of the statutes, as affected by 1995 Wisconsin Acts
10 227 and ... (this act), is amended to read:

11 215.21 (4) (a) All mortgages described in this section shall have priority over
12 all liens, except tax and special assessment liens and liens under ss. 292.31 (8) (i) and
13 292.41 (6) (d) and 292.81, upon the mortgaged premises and the buildings and
14 improvements thereon, which shall be filed subsequent to the recording of such
15 mortgage.

16 **SECTION 106.** 292.31 (2) (f) of the statutes, as affected by 1995 Wisconsin Act
17 227, is amended to read:

18 292.31 (2) (f) Means of making the most effective use of the grant program
19 under s. 292.61 so as to encourage the greatest number of ~~political subdivisions~~ local
20 governmental units to undertake remedial action on property that they own.

21 **SECTION 107.** 292.35 (7) of the statutes, as affected by 1995 Wisconsin Act 227,
22 is amended to read:

23 292.35 (7) RESPONSIBLE PARTIES SUBJECT TO AN AGREEMENT OR RECOMMENDATION.
24 A responsible party that enters into an agreement under sub. (5) with a ~~political~~
25 ~~subdivision~~ local governmental unit or that accepts the umpire's recommendation

1 under sub. (6), if the ~~political subdivision~~ local governmental unit does not reject the
2 recommendation, is required to comply with the agreement or recommendation.
3 When the responsible party has complied with the agreement or recommendation,
4 the responsible party is not liable to the state, including under s. 292.11 (7) (b) or
5 292.31 (8), or to the ~~political subdivision~~ local governmental unit for any additional
6 costs of the investigation or remedial action; the responsible party is not liable to any
7 other responsible party for contribution to costs incurred by any other responsible
8 party for the investigation or remedial action; and the responsible party is not subject
9 to an order under s. 292.11 (7) (c) for the discharge that is the subject of the agreement
10 or recommendation.

11 **SECTION 108.** 292.35 (9) (b) 1. of the statutes, as affected by 1995 Wisconsin Act
12 227, is amended to read:

13 292.35 (9) (b) 1. Except as provided in pars. (bm), (br) and (e), sub. (7) and s.
14 292.21, a responsible party is liable for a portion of the costs, as determined under
15 pars. (c) to (e), incurred by a ~~political subdivision~~ local governmental unit for
16 remedial action in an agreement under sub. (5) or a recommendation under sub. (6)
17 and for any related investigation. A right of action shall accrue to a ~~political~~
18 ~~subdivision~~ local governmental unit against the responsible party for costs listed in
19 this subdivision.

20 **SECTION 109.** 292.61 (3) (b) 4. of the statutes, as affected by 1995 Wisconsin Act
21 227, is amended to read:

22 292.61 (3) (b) 4. A statement of whether the ~~political subdivision~~ local
23 governmental unit intends to use the cost recovery procedure in 292.35. If the
24 ~~political subdivision~~ local governmental unit indicates in its application that it
25 intends to use the cost recovery procedure in s. 292.35, the department may not

1 approve the application for a remedial action grant until the ~~political subdivision~~
2 local governmental unit completes the procedures under s. 292.35 (2g) and (2r).

3 **SECTION 110.** 292.61 (5) of the statutes, as affected by 1995 Wisconsin Act 227,
4 is amended to read:

5 292.61 (5) SUBROGATION. The state is subrogated to the rights of a ~~political~~
6 ~~subdivision~~ local governmental unit that obtains an award under this section in an
7 amount equal to the award. All moneys recovered under this subsection shall be
8 credited to the environmental fund for environmental repair.

9 **SECTION 111.** 292.81 (2) (a) (intro.), 1. and 2. and (d) and (3) of the statutes, as
10 affected by 1995 Wisconsin Act 227, are amended to read:

11 292.81 (2) (a) (intro.) Before incurring expenses under s. 292.11, ~~or~~ 292.31 (1),
12 (3) or (7) ~~or~~ 292.41 (4) with respect to a property, the department shall provide to the
13 current owner of the property and to any mortgagees of record a notice containing
14 all of the following:

15 1. A brief description of the property for which the department expects to incur
16 expenses under s. 292.11, ~~or~~ 292.31 (1), (3) or (7) ~~or~~ 292.41 (4).

17 2. A brief description of the types of activities that the department expects may
18 be conducted at the property under s. 292.11, ~~or~~ 292.31 (1), (3) or (7) ~~or~~ 292.41 (4).

19 (d) No notice under this subsection is necessary in circumstances in which
20 entry onto the property without prior notice is authorized under s. 292.11 (8) ~~or~~ under
21 s. 292.41 (5).

22 (3) Any expenditures made by the department under s. 292.11 or 292.31 (1),
23 (3) or (7) ~~or~~, subject to s. 292.41 (6) (d), under s. 292.41 (4) shall constitute a lien upon
24 the property for which expenses are incurred if the department files the lien with the
25 register of deeds in the county in which the property is located. A lien under this

1 section shall be superior to all other liens that are or have been filed against the
2 property, except that if the property is residential property, as defined in s. 895.52
3 (1) (i), the lien may not affect any valid prior lien on that residential property.

4 **SECTION 112.** 703.16 (6) (e) of the statutes is amended to read:

5 703.16 (6) (e) A lien under s. 144.442 (9) (i), or 144.76 (13) ~~or 144.77 (6) (d)~~.

6 **SECTION 113.** 703.16 (6) (e) of the statutes, as affected by 1995 Wisconsin Acts
7 227 and (this act), is amended to read:

8 703.16 (6) (e) A lien under s. 292.31 (8) (i) ~~or 292.41 (6) (d)~~ or 292.81.

9 **SECTION 114.** 706.11 (1) (intro.) of the statutes is amended to read:

10 706.11 (1) (intro.) Except as provided in sub. (4), when any of the following
11 mortgages has been duly recorded, it shall have priority over all liens upon the
12 mortgaged premises and the buildings and improvements thereon, except tax and
13 special assessment liens filed after the recording of such mortgage and except liens
14 under s. ss. 144.442 (9) (i), and 144.76 (13) ~~and 144.77 (6) (d)~~.

15 **SECTION 115.** 706.11 (1) (intro.) of the statutes, as affected by 1995 Wisconsin
16 Acts 227 and (this act), is amended to read:

17 706.11 (1) (intro.) Except as provided in sub. (4), when any of the following
18 mortgages has been duly recorded, it shall have priority over all liens upon the
19 mortgaged premises and the buildings and improvements thereon, except tax and
20 special assessment liens filed after the recording of such mortgage and except liens
21 under ss. 292.31 (8) (i) ~~and 292.41 (6) (d)~~ and 292.81:

22 **SECTION 116.** 707.37 (4) (d) of the statutes, as affected by 1995 Wisconsin Act
23 225, is amended to read:

24 707.37 (4) (d) A lien under s. 144.442 (9) (i), or 144.76 (13) ~~or 144.77 (6) (d)~~.

1 **SECTION 117.** 707.37 (4) (d) of the statutes, as affected by 1995 Wisconsin Acts
2 227 and ... (this act), is amended to read:

3 707.37 (4) (d) A lien under s. 292.31 (8) (i) ~~or 292.41 (6) (d)~~ or 292.81.

4 **SECTION 118.** 779.01 (4) of the statutes, as affected by 1995 Wisconsin Act 225,
5 is amended to read:

6 779.01 (4) PRIORITY OF CONSTRUCTION LIEN. The lien provided in sub. (3) shall
7 be prior to any lien which originates subsequent to the visible commencement in
8 place of the work of improvement, except as otherwise provided by ss. 144.442 (9) (i),
9 144.76 (13), ~~144.77 (6) (d)~~, 215.21 (4) (a) and 706.11 (1). When new construction is
10 the principal improvement involved, commencement is deemed to occur no earlier
11 than the beginning of substantial excavation for the foundations, footings or base of
12 the new construction, except where the new construction is to be added to a
13 substantial existing structure, in which case the commencement is the time of the
14 beginning of substantial excavation or the time of the beginning of substantial
15 preparation of the existing structure to receive the added new construction,
16 whichever is earlier. The lien also shall be prior to any unrecorded mortgage given
17 prior to the commencement of the work of improvement, if the lien claimant has no
18 actual notice of the mortgage before the commencement. Lien claimants who
19 perform work or procure its performance or furnish any labor or materials or plans
20 or specifications for an improvement prior to the visible commencement of the work
21 of improvement shall have lien rights, but shall have only the priority accorded to
22 other lien claimants.

23 **SECTION 119.** 779.01 (4) of the statutes, as affected by 1995 Wisconsin Acts 227
24 and ... (this act), is amended to read:

1 779.01 (4) PRIORITY OF CONSTRUCTION LIEN. The lien provided in sub. (3) shall
2 be prior to any lien which originates subsequent to the visible commencement in
3 place of the work of improvement, except as otherwise provided by ss. 215.21 (4) (a),
4 292.31 (8) (i), ~~292.41 (6) (d)~~, 292.81 and 706.11 (1). When new construction is the
5 principal improvement involved, commencement is deemed to occur no earlier than
6 the beginning of substantial excavation for the foundations, footings or base of the
7 new construction, except where the new construction is to be added to a substantial
8 existing structure, in which case the commencement is the time of the beginning of
9 substantial excavation or the time of the beginning of substantial preparation of the
10 existing structure to receive the added new construction, whichever is earlier. The
11 lien also shall be prior to any unrecorded mortgage given prior to the commencement
12 of the work of improvement, if the lien claimant has no actual notice of the mortgage
13 before the commencement. Lien claimants who perform work or procure its
14 performance or furnish any labor or materials or plans or specifications for an
15 improvement prior to the visible commencement of the work of improvement shall
16 have lien rights, but shall have only the priority accorded to other lien claimants.

17 **SECTION 120.** 779.35 of the statutes is amended to read:

18 **779.35 Mining liens.** Any person who shall perform any labor or services for
19 any person or corporation engaged in or organized for the purpose of mining,
20 smelting or manufacturing iron, copper, silver or other ores or minerals, and any
21 bona fide holder of any draft, time check or order for the payment of money due for
22 any such labor, issued or drawn by any such person or corporation, shall have a lien
23 for the wages due for the amount due on such draft, check or order upon all the
24 personal property connected with such mining, smelting or manufacturing industry
25 belonging to such person or corporation, including the ores or products of such mine

1 or manufactory, together with the machinery and other personal property used in the
2 operation of such mine or manufactory and all the interest of such person or
3 corporation in any real estate belonging thereto and connected with such business,
4 which said lien shall take precedence of all other debts, judgments, decrees, liens or
5 mortgages against such person or corporation, except liens accruing for taxes, fines
6 or penalties and liens under ss. 144.442 (9) (i), and 144.76 (13) ~~and 144.77 (6) (d)~~,
7 subject to the exceptions and limitations hereinafter set forth.

8 **SECTION 121.** 779.35 of the statutes, as affected by 1995 Wisconsin Acts 227 and
9 (this act), is amended to read:

10 **779.35 Mining liens.** Any person who shall perform any labor or services for
11 any person or corporation engaged in or organized for the purpose of mining,
12 smelting or manufacturing iron, copper, silver or other ores or minerals, and any
13 bona fide holder of any draft, time check or order for the payment of money due for
14 any such labor, issued or drawn by any such person or corporation, shall have a lien
15 for the wages due for the amount due on such draft, check or order upon all the
16 personal property connected with such mining, smelting or manufacturing industry
17 belonging to such person or corporation, including the ores or products of such mine
18 or manufactory, together with the machinery and other personal property used in the
19 operation of such mine or manufactory and all the interest of such person or
20 corporation in any real estate belonging thereto and connected with such business,
21 which said lien shall take precedence of all other debts, judgments, decrees, liens or
22 mortgages against such person or corporation, except liens accruing for taxes, fines
23 or penalties and liens under ss. 292.31 (8) (i) ~~and 292.41 (6) (d)~~ and 292.81, subject
24 to the exceptions and limitations hereinafter set forth.

1 **SECTION 122.** 779.40 (1) of the statutes, as affected by 1995 Wisconsin Act 225,
2 is amended to read:

3 779.40 (1) Any person who shall perform any labor for an employer not the
4 owner of the real estate, engaged in quarrying, crushing, cutting or otherwise
5 preparing stone for use or for manufacturing lime and any bona fide holder of any
6 draft, time check or order for the payment of money due for any such labor issued by
7 such employer, shall have a lien for wages owed and for the amount due on such draft,
8 check or order upon the personal property connected with such industry owned by
9 such employer, including interest in the product of such quarry or factory and
10 machinery and other personal property used in the operation of such quarry or
11 factory, and all interest in any lease of the real estate connected with such business,
12 which lien shall take precedence of all other debts, judgments, decrees, liens or
13 mortgages against such employer, except taxes, fines or penalties and mortgages or
14 judgments recorded or entered before such labor is performed and except liens under
15 ss. 144.442 (9) (i), and 144.76 (13) and ~~144.77 (6) (d)~~.

16 **SECTION 123.** 779.40 (1) of the statutes, as affected by 1995 Wisconsin Acts 227
17 and (this act), is amended to read:

18 779.40 (1) Any person who shall perform any labor for an employer not the
19 owner of the real estate, engaged in quarrying, crushing, cutting or otherwise
20 preparing stone for use or for manufacturing lime and any bona fide holder of any
21 draft, time check or order for the payment of money due for any such labor issued by
22 such employer, shall have a lien for wages owed and for the amount due on such draft,
23 check or order upon the personal property connected with such industry owned by
24 such employer, including interest in the product of such quarry or factory and
25 machinery and other personal property used in the operation of such quarry or

1 factory, and all interest in any lease of the real estate connected with such business,
2 which lien shall take precedence of all other debts, judgments, decrees, liens or
3 mortgages against such employer, except taxes, fines or penalties and mortgages or
4 judgments recorded or entered before such labor is performed and except liens under
5 ss. 292.31 (8) (i) and ~~292.41 (6) (d)~~ and 292.81.

6 **SECTION 124.** 823.115 (1) of the statutes is amended to read:

7 823.115 (1) If personal and real property are ordered sold under s. 823.114, and
8 the real property is not released to the owner under s. 823.15, the plaintiff in the
9 action under s. 823.113 shall sell the property at the highest available price. The city,
10 town or village may sell the property at either a public or private sale. The proceeds
11 of the sale shall be applied to the payment of the costs of the action and abatement
12 and any liens on the property, and the balance, if any, paid as provided in sub. (2).
13 The plaintiff may file a notice of the pendency of the action as in actions affecting the
14 title to real estate and if the owner of the building or structure, or the owner of the
15 land upon which the building or structure is located, is found guilty of the nuisance,
16 the judgment for costs of the action not paid out of the proceeds of the sale of the
17 property shall constitute a lien on the real estate prior to any other lien created after
18 the filing of the lis pendens, except a lien under s. 144.442 (9) (i), or 144.76 (13) or
19 ~~144.77 (6) (d)~~.

20 **SECTION 125.** 823.115 (1) of the statutes, as affected by 1995 Wisconsin Acts 227
21 and ... (this act), is amended to read:

22 823.115 (1) If personal and real property are ordered sold under s. 823.114, and
23 the real property is not released to the owner under s. 823.15, the plaintiff in the
24 action under s. 823.113 shall sell the property at the highest available price. The city,
25 town or village may sell the property at either a public or private sale. The proceeds

1 of the sale shall be applied to the payment of the costs of the action and abatement
2 and any liens on the property, and the balance, if any, paid as provided in sub. (2).
3 The plaintiff may file a notice of the pendency of the action as in actions affecting the
4 title to real estate and if the owner of the building or structure, or the owner of the
5 land upon which the building or structure is located, is found guilty of the nuisance,
6 the judgment for costs of the action not paid out of the proceeds of the sale of the
7 property shall constitute a lien on the real estate prior to any other lien created after
8 the filing of the lis pendens, except a lien under s. 292.31 (8) (i) ~~or 292.41 (6) (d) or~~
9 292.81.

10 **SECTION 126. Nonstatutory provisions; commerce.**

11 (1) **ADDITIONAL AWARDS FOR FAILED REMEDIAL ACTION.** The department of
12 commerce shall study the implementation of section 101.143 (4) (a) 8. of the statutes,
13 as created by this act, with particular attention to the effect of the maximum
14 allowable awards under the petroleum environmental cleanup fund award program.
15 No later than March 1, 1997, the department shall distribute its report on the study
16 to the appropriate standing committees of the legislature, as determined by the
17 president of the senate and the speaker of the assembly, in the manner provided
18 under section 13.172 (3) of the statutes and to the cochairpersons of the joint
19 committee on finance.

20 (2) **EMERGENCY RULES.**

21 (a) The department of commerce may use the procedure under section 227.24
22 of the statutes to promulgate rules under section 101.143 of the statutes, as affected
23 by the laws of 1995. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,
24 the emergency rules may remain in effect for a period not to exceed 2 years.
25 Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the department

1 need not provide evidence of the necessity of preservation of the public peace, health,
2 safety or welfare in promulgating the rules under this paragraph.

3 (b) The department of commerce may not promulgate emergency rules under
4 paragraph (a) after December 31, 1996.

5 **SECTION 127. Nonstatutory provisions; industry, labor and human**
6 **relations.**

7 (1) EMERGENCY RULES. Before July 1, 1996, the department of industry, labor
8 and human relations may use the procedure under section 227.24 of the statutes to
9 promulgate rules under section 101.143 of the statutes, as affected by the laws of
10 1995. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency
11 rules may remain in effect for a period not to exceed 2 years. Notwithstanding section
12 227.24 (1) (a) and (2) (b) of the statutes, the department need not provide evidence
13 of the necessity of preservation of the public peace, health, safety or welfare in
14 promulgating the rules under this subsection.

15 **SECTION 128. Effective dates.** This act takes effect on July 1, 1996, or on the
16 day after publication, whichever is later, except as follows:

17 (1) The treatment of section 101.143 (4) (a) 5. and 7. of the statutes and SECTION
18 127 of this act take effect on the day after publication.

19 (2) The treatment of sections 27.065 (10) (a) (by SECTION 2), 50.05 (15) (d) (by
20 SECTION 4), 66.521 (9) (by SECTION 6), 70.01 (by SECTION 8), 76.13 (2) (by SECTION 10),
21 76.22 (1) (by SECTION 12), 76.39 (5) (by SECTION 14), 88.40 (2) (by SECTION 16), 101.143
22 (3) (c) 4. (by SECTION 21), 109.09 (2) (by SECTION 31), 144.765 (2) (am) (by SECTION 93)
23 and (6) (by SECTION 100), 214.495 (1) (by SECTION 103), 215.21 (4) (a) (by SECTION 105),
24 292.31 (2) (f), 292.35 (7) and (9) (b) 1., 292.61 (3) (b) 4. and (5), 292.81 (2) (a) (intro.),
25 1. and 2. and (d) and (3), 703.16 (6) (e) (by SECTION 113), 706.11 (1) (intro.) (by SECTION

1 115), 707.37 (4) (d) (by SECTION 117), 779.01 (4) (by SECTION 119), 779.35 (by SECTION
2 121), 779.40 (1) (by SECTION 122) and 823.115 (1) (by SECTION 125) of the statutes, the
3 renumbering of sections 144.4422 (1) (bm) and 144.765 (1) (f) (intro.), 1. and 3. of the
4 statutes and the renumbering and amendment of section 144.765 (1) (f) 2. of the
5 statutes take effect on January 1, 1997.

6 (END)