



State of Wisconsin
2013 - 2014 LEGISLATURE



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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 625**

February 14, 2014 - Offered by Representative GOYKE.

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

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

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

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

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

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

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

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

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

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

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

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

11 1. The municipality has determined that the property is abandoned. In
12 determining whether the property is abandoned, the municipality shall use the
13 criteria under s. 846.102 (2) (a) to (f).

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

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

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

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

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

12 **(3) ENTRY BY PLAINTIFF.** In a foreclosure action, if the court finds under s.
13 846.102 or otherwise that the property has been abandoned, at any time after
14 judgment for the plaintiff has been entered, the plaintiff, or an employee or agent of
15 or contractor with the plaintiff, may go on the property and enter any buildings on
16 the property, using such reasonable force as appears necessary, to inspect the
17 property and take any action necessary to preserve or protect the property.

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

23 (b) The clerk of circuit court and the municipality and law enforcement agency
24 may agree on the form of the notice and the method of delivering the notice, or the

1 clerk may provide the notice in the form and manner most convenient for the clerk,
2 which may include delivery by electronic mail.

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

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

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

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

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

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

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

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

24 943.13 **(4m)** (e) A person entering or remaining on the land as authorized under
25 s. 66.0414 (2) or (3), 2013 stats.

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

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

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

9 **943.14 Criminal trespass to dwellings.** Whoever intentionally enters the
10 dwelling of another without the consent of some person lawfully upon the premises,
11 under circumstances tending to create or provoke a breach of the peace, is guilty of
12 a Class A misdemeanor. This section does not apply to a person entering or
13 remaining on the land as authorized under s. 66.0414 (2) or (3), 2013 stats.

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

15 943.15 (1r) This section does not apply to a person entering or remaining on
16 the land as authorized under s. 66.0414 (2) or (3).

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

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

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

