



2009 ASSEMBLY BILL 160

March 19, 2009 – Introduced by Representatives YOUNG, TURNER, KESSLER, A. WILLIAMS and GRIGSBY. Referred to Committee on Housing.

1 **AN ACT** *to create* 846.03 of the statutes; **relating to:** delaying certain mortgage
2 foreclosure actions.

Analysis by the Legislative Reference Bureau

Under current law, if a mortgagee brings an action for foreclosure of a mortgage, the homeowner (mortgagor) answers the complaint and the normal civil procedural rules of discovery and evidence, pretrial, and trial apply. If the court determines that the mortgagee has the right to the foreclosure, the court issues a judgment for foreclosure of the mortgage, which entitles the mortgagee to force a sale of the property.

This bill requires the court in a foreclosure action to delay the action for foreclosure of a mortgage for 90 days. Under the bill, the court must delay the action only if the mortgagor shows that all of the following conditions apply:

1. The mortgagor owns the real estate subject to the mortgage and the property is his or her principal residence.
2. The mortgagor does not own any other real estate.
3. The real estate subject to the mortgage is improved with a residential building containing less than six dwelling units.

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

3 **SECTION 1.** 846.03 of the statutes is created to read:

ASSEMBLY BILL 160**SECTION 1**

1 **846.03 Abeyance of judgment of foreclosure. (1)** In this section:

2 (a) “Mortgagee” means the holder or assignee of any recorded mortgage and,
3 for purposes of this section, is considered to represent the financial interests of all
4 holders of notes executed in connection with the loan on which the mortgage is based.

5 (b) “Primary mortgage loan” means a loan secured by a first lien real estate
6 mortgage, or equivalent security interest, in the real property subject to foreclosure.

7 (c) “Secondary mortgage loan” means a loan secured by a real estate mortgage,
8 or equivalent security interest, in the real property subject to foreclosure, which
9 mortgage or security interest is subordinate to a first lien real estate mortgage, or
10 equivalent security interest, in the same property.

11 **(2)** If an action is commenced to foreclose a mortgage, the mortgagor may
12 request by motion or by answer that the court hold the action in abeyance for a period
13 of not more than 90 days if the mortgagor shows that all of the following conditions
14 are met:

15 (a) The mortgagor is a natural person.

16 (b) The mortgagor obtained the loan secured by the mortgage primarily for
17 personal, family, or household purposes.

18 (c) The loan is secured by a primary mortgage loan or secondary mortgage loan
19 on real property that is improved with a residential building containing no more than
20 6 dwelling units.

21 (d) The real property subject to the foreclosure is the principal residence of the
22 mortgagor.

23 (e) The mortgagor owns no other real property.

24 (f) The real property subject to the foreclosure is in this state.

