



2009 ASSEMBLY BILL 305

June 4, 2009 - Introduced by Representatives DEXTER, RICHARDS, A. WILLIAMS, BERCEAU, ZEPNICK, KAUFERT and MASON, cosponsored by Senators KREITLOW, SULLIVAN and LEHMAN. Referred to Committee on Housing.

- 1 **AN ACT** *to create* 802.02 (1) (c) and 802.12 (2) (am) of the statutes; **relating to:**
2 notification of alternative dispute resolution in foreclosure actions.

Analysis by the Legislative Reference Bureau

Under current law, a lender or mortgage holder that wishes to foreclose on a home must file a complaint in circuit court setting forth the facts that support a foreclosure and stating the relief the lender or mortgage holder seeks. After being properly served with the complaint, the homeowner may answer the complaint and the matter will proceed to trial, the parties may settle the dispute, or the court may rule in favor of one party or the other based solely on the pleadings filed with the court.

Current law offers alternative dispute resolution to parties in a civil action. Alternative dispute resolution may consist of binding or nonbinding arbitration, direct negotiation or a settlement discussion between the parties that is facilitated by a neutral third party, an evaluation of the merits of the case and a discussion of possible resolutions of the matter by a neutral third party or a panel of citizens chosen by the parties, or an abbreviated trial on some or all of the issues in dispute. Alternative dispute resolution may be requested by either party in a civil case or may be ordered by the judge.

This bill requires the lender, mortgage holder, or any other party bringing a foreclosure action against a homeowner to include, in its pleading that sets forth a claim for relief, a statement that either party may request the court to order alternative dispute resolution for the foreclosure claim. Under the bill, if either of

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the parties elects alternative dispute resolution, the time periods for any responsive pleadings in the case are tolled until the alternative dispute resolution is concluded.

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

1 **SECTION 1.** 802.02 (1) (c) of the statutes is created to read:

2 802.02 (1) (c) If the claim for relief is for the foreclosure of a mortgage on real
3 estate under ch. 846, a statement that either party may request the court to order
4 the parties to select a settlement alternative under s. 802.12 as a means to attempt
5 settlement of the claim, by submitting a request to the court and serving a copy of
6 that request on the other party no later than 5 days before an answer is otherwise
7 due.

8 **SECTION 2.** 802.12 (2) (am) of the statutes is created to read:

9 802.12 (2) (am) If the action includes a claim for relief for the foreclosure of a
10 mortgage on real estate under ch. 846, a party to the action requests the court to order
11 the parties to select a settlement alternative and serves that request on the other
12 party no later than 5 days before an answer is otherwise due, and the court
13 determines that the request is timely and the action or proceeding is an appropriate
14 one in which to invoke a settlement alternative, the time periods for any responsive
15 pleading are tolled until the selected settlement alternative is concluded.

16 **SECTION 3. Initial applicability.**

17 (1) This act first applies to actions commenced on the effective date of this
18 subsection.

19

(END)