

2001 DRAFTING REQUEST

Bill

Received: 08/28/2001

Received By: dykmapj

Wanted: As time permits

Identical to LRB:

For: Kimberly Plache (608) 266-1832

By/Representing: John Anderson

This file may be shown to any legislator: NO

Drafter: dykmapj

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - UCC  
Counties - miscellaneous

Extra Copies: RJM

Submit via email: NO

Pre Topic:

No specific pre topic given


Topic:

Changes regarding filing and recording relating to real estate

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	dykmapj 10/18/2001	gilfokm 10/18/2001					S&L
/1			rschluet 10/19/2001		lrb_docadmin 10/19/2001	lrb_docadminS&L 11/06/2001	

*Att. intro.*

FE Sent For:

<END>

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**Sill**

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1?	dykmapj	11-10/18 KMG	 10-19-01				

FE Sent For:

<END>



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Due 10/19, Fri.

*Fix Request Sheet*

1 AN ACT to repeal 59.43 (1) (um), 409.528, 409.528 (1) (title) and 409.528 (2); to  
2 renumber 409.528 (1); to amend 59.43 (1) (L), 59.43 (1) (m), (n) and (o), 134.17  
3 (4), 185.42 (2), 409.523 (3) (intro.) and 779.97 (5) (a) 1.; to repeal and recreate  
4 59.43 (2) (ag), 59.43 (2) (ag), 59.43 (2) (e), 59.43 (2) (e), 59.72 (5) and 59.72 (5);  
5 to create 59.43 (1) (um) and 409.519 (9) of the statutes; and to affect 1997  
6 Wisconsin Act 27, section 9456 (3m); relating to: recording and filing  
7 documents with the offices of register of deeds and the department of financial  
8 institutions.

*Analysis by the Legislative Reference Bureau*

~~*This is a preliminary draft.*~~

This bill makes the following changes regarding the recording and filing of documents with the offices of registers of deeds and the department of financial institutions:

1. Documents pertaining to security interests that are filed with the offices of registers of deeds must meet most of the format and legibility standards for documents recorded with the offices.
2. Documents pertaining to security interests and certain other records that are filed with the offices of registers of deeds are indexed in the real estate records index, rather than indexes in books.

3. Clarifies which documents are recorded and which are filed with the offices of registers of deeds, and which are filed with the department of financial institutions and which are filed with the offices of registers of deeds, and which fees apply to which documents.

4. Provides that only the department of financial institutions, not the offices of registers of deeds, when assigning a file number for a document pertaining to security interests, must include a digit that is mathematically derived from or related to the other digits of the file number and aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

5. Provides that only the department of financial institutions, not the offices of registers of deeds, is required to provide results of searches of its records for financing statements filed in its filing system.

6. Eliminates the requirement that the department of financial institutions and the offices of registers of deeds enter all information regarding filings under the provisions of the Uniform Commercial Code relating to security interests into the statewide lien system.

7. Eliminates, effective July 1, 2008, the requirement that the statewide lien system be maintained.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           SECTION 1. 59.43 (1) (L) of the statutes, as affected by 2001 Wisconsin Act 10,  
2 is amended to read:

3           59.43 (1) (L) File all documents pertaining to security interests, as defined in  
4 s. 401.201 (37) (a), that are required or authorized by law to be filed with the register.  
5 Except as otherwise prescribed by the department of financial institutions under  
6 subch. V of ch. 409, these documents shall be executed ~~on white or light colored sheets~~  
7 ~~of paper, 8 or 8.5 inches wide and 5, 7, 10.5, or 14 inches long. Whenever there is~~  
8 ~~offered for filing any document that varies more than one eighth inch from the~~  
9 ~~approved size, or that is not on a standard form prescribed by ch. 409 or by the~~  
10 ~~department of financial institutions, then in addition to the regular filing fee an~~  
11 ~~additional filing fee shall be charged by the register of deeds, as prescribed by sub.~~

1 ~~(2). No assignment, release, or other instrument shall be offered for filing that is~~  
2 ~~executed or endorsed on any other document, but each shall be a separate and~~  
3 ~~distinct document, except those assignments or notices that are printed or written~~  
4 ~~on and immediately following the original agreement or financing statement, offered~~  
5 ~~for filing at the same time, shall be considered as one document. All of these~~  
6 ~~documents shall be legibly written, and shall have the names of the debtor and~~  
7 ~~secured party plainly printed or typed on the document and shall provide a space for~~  
8 ~~filing data of the register of deeds on the outside of the document meeting the~~  
9 ~~requirements set forth in sub. (2m) (b) 1. to 5.~~

10 SECTION 2. 59.43 (1) (m), (n) and (o) of the statutes, as affected by 2001  
11 Wisconsin Act 10, are amended to read:

12 59.43 (1) (m) ~~Except as otherwise provided in subchs. V and VII of ch. 409, keep~~  
13 Keep these chattel documents in consecutive numerical arrangement, for the  
14 inspection of all persons, endorsing on each document the document number and the  
15 date and time of reception.

16 (n) Upon the filing of a financing statement or other document evidencing the  
17 creation of a security interest, as defined in s. 401.201 (37) (a), required to be filed  
18 or recorded with the register under s. 409.501 (1) (a), ~~enter the name of each debtor~~  
19 ~~alphabetically in indices, of which each page shall be divided into columns which~~  
20 ~~shall contain the following information: number of the document, date and time of~~  
21 ~~filing, name and address of debtor, name and address of secured party, name of the~~  
22 ~~document, the amount if any, shown in the document, brief description of property,~~  
23 ~~and the last column set aside for the entry of assignments, continuation statements,~~  
24 ~~termination statements, foreclosure affidavits, extensions and releases pertaining~~  
25 ~~to such financing statements or chattel security documents. If the financing~~

1 ~~statement evidences the creation of a security interest in fixtures, it also shall be~~  
2 ~~entered in the tract index if one is kept in the county index the document in the real~~  
3 ~~estate records index under sub. (9).~~

4 (o) ~~Except as otherwise provided in subch. V of ch. 409, upon~~ Upon the filing  
5 of an assignment, continuation statement, termination statement, foreclosure  
6 affidavit, extension, or release pertaining to a filed financing statement or other  
7 chattel security document, ~~enter the document number and the date and time of~~  
8 ~~filing in the appropriate column of the indices referred to in par. (n) and on the same~~  
9 ~~line as that on which the entry of the filed financing statement or other chattel~~  
10 ~~security document appears~~ index the document in the real estate records index under  
11 sub. (9).

12 **SECTION 3.** 59.43 (1) (um) of the statutes is created to read:

13 59.43 (1) (um) Submit that portion of recording and filing fees collected under  
14 sub. (2) (ag) 1. or (e) and not retained by the county to the land information board  
15 under s. 59.72 (5).

16 **SECTION 4.** 59.43 (1) (um) of the statutes, as created by 2001 Wisconsin Act ...  
17 (this act), is repealed.

18 **SECTION 5.** 59.43 (2) (ag) of the statutes, as affected by 1997 Wisconsin Act 27  
19 and 2001 Wisconsin Acts 10 and 16, is repealed and recreated to read:

20 59.43 (2) (ag) 1. Subject to s. 59.72 (5), for recording any instrument entitled  
21 to be recorded in the office of register of deeds, \$11 for the first page and \$2 for each  
22 additional page, except that no fee may be collected for recording a change of address  
23 that is exempt from a filing fee under s. 185.83 (1) (b).

24 2. In the event of conflict in the statutes regarding recording fees, subd. 1. shall  
25 control.

1           **SECTION 6.** 59.43 (2) (ag) of the statutes, as affected by 2001 Wisconsin Act ....  
2 (this act), is repealed and recreated to read:

3           59.43 (2) (ag) 1. For recording any instrument entitled to be recorded in the  
4 office of register of deeds, \$8 for the first page if the county maintains a land  
5 information office under s. 59.72 (3) and \$4 for the first page if the county does not  
6 maintain such an office, and \$2 for each additional page, except that no fee may be  
7 collected for recording a change of address that is exempt from a filing fee under s.  
8 185.83 (1) (b).

9           2. In the event of conflict in the statutes regarding recording fees, subd. 1. shall  
10 control.

11           **SECTION 7.** 59.43 (2) (e) of the statutes, as affected by 1997 Wisconsin Act 27  
12 and 2001 Wisconsin Act 16, is repealed and recreated to read:

13           59.43 (2) (e) Subject to s. 59.72 (5), for filing any instrument which is entitled  
14 to be filed in the office of register of deeds and for which no other specific fee is  
15 specified, \$11 for the first page and \$2 for each additional page.

16           **SECTION 8.** 59.43 (2) (e) of the statutes, as affected by 2001 Wisconsin Act ....  
17 (this act), is repealed and recreated to read:

18           59.43 (2) (e) For filing any instrument which is entitled to be filed in the office  
19 of register of deeds and for which no other specific fee is specified, \$8 for the first page  
20 if the county maintains a land information office under s. 59.72 (3) and \$4 for the first  
21 page if the county does not maintain such an office, and \$2 for each additional page.

22           **SECTION 9.** 59.72 (5) of the statutes, as affected by 2001 Wisconsin Act 16, is  
23 repealed and recreated to read:

24           59.72 (5) **LAND RECORD MODERNIZATION FUNDING.** (a) Before the 16th day of each  
25 month a register of deeds shall submit to the land information board \$7 from the fee



1 for recording or filing the first page of each instrument that is recorded or filed under  
2 s. 59.43 (2) (ag) 1. or (e), less any amount retained by the county under par. (b).

3 (b) A county may retain \$5 of the \$7 submitted under par. (a) from the fee for  
4 recording or filing the first page of each instrument that is recorded or filed under  
5 s. 59.43 (2) (ag) 1. or (e) if all of the following conditions are met:

6 1. The county has established a land information office under sub. (3).

7 2. A land information office has been established for less than 2 years or has  
8 received approval for a countywide plan for land records modernization under sub.  
9 (3) (b).

10 3. The county uses \$4 of each \$5 fee retained under this paragraph to develop,  
11 implement, and maintain the countywide plan for land records modernization, and  
12 \$1 of each \$5 fee retained under this paragraph to develop and maintain a  
13 computerized indexing of the county's land information records relating to housing,  
14 including the housing element of the county's land use plan under s. 66.1001 (2) (b),  
15 in a manner that would allow for greater public access through use of the Internet.

16 **SECTION 10.** 59.72 (5) of the statutes, as affected by 1997 Wisconsin Act 27 and  
17 2001 Wisconsin Act .... (this act), is repealed and recreated to read:

18 59.72 (5) LAND RECORD MODERNIZATION FUNDING. A county that establishes a  
19 land information office shall use \$4 of the \$8 per page received under s. 59.43 (2) (ag)  
20 1. and (e) to develop, implement, and maintain a countywide plan for land records  
21 modernization.

22 **SECTION 11.** 134.17 (4) of the statutes is amended to read:

23 134.17 (4) For each recording, the register of deeds shall receive the fee  
24 specified for ~~filing~~ recording under s. 59.43 (2) (ag).

25 **SECTION 12.** 185.42 (2) of the statutes is amended to read:

1           185.42 (2) The register of deeds, upon payment of the fee specified under s.  
2           59.43 (2) (e) (ag), shall number each contract consecutively and shall record it. The  
3           register of deeds shall enter the name of every member-maker of such a contract  
4           alphabetically in a book to be kept for that purpose. ~~He or she shall place members~~  
5           ~~and cooperatives under a separate head and shall state in separate columns, opposite~~  
6           ~~each name, the number of the contract, the date of the filing, and a brief description~~  
7           ~~of the products, goods or services covered by such contract~~ in the real estate records  
8           index under s. 59.43 (9).

9           **SECTION 13.** 409.519 (9) of the statutes is created to read:

10          409.519 (9) INAPPLICABILITY TO REAL-PROPERTY-RELATED FILING OFFICE.

11          Subsection (2) does not apply to a filing office described in s. 409.501 (1) (a).

12          **SECTION 14.** 409.523 (3) (intro.) of the statutes, as affected by 2001 Wisconsin  
13          Act 10, is amended to read:

14          409.523 (3) COMMUNICATION OF REQUESTED INFORMATION. (intro.) The filing  
15          office described in s. 409.501 (1) (b) shall communicate or otherwise make available  
16          in a record the following information to any person that requests it:

17          **SECTION 15.** 409.528 of the statutes, as affected by 2001 Wisconsin Act .... (this  
18          act), is repealed.

19          **SECTION 16.** 409.528 (1) (title) of the statutes, as affected by 2001 Wisconsin  
20          Act 10, is repealed.

21          **SECTION 17.** 409.528 (1) of the statutes, as affected by 2001 Wisconsin Act 10,  
22          is renumbered 409.528.

23          **SECTION 18.** 409.528 (2) of the statutes, as affected by 2001 Wisconsin Act 10,  
24          is repealed.

25          **SECTION 19.** 779.97 (5) (a) 1. of the statutes is amended to read:





# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

October 19, 2001

### MEMORANDUM

To: Senator Plache

From: Attorney Peter J. Dykman, General Counsel

Re: LRB-3681/1 Changes regarding filing and recording relating to real estate

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

\_\_\_\_ JACKET FOR ASSEMBLY    ~~\_\_\_\_~~ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7098 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.