

2003 DRAFTING REQUEST

Senate Amendment (SA-SSA(LRBs0071/1)-AB2)

Received: **05/28/2003**

Received By: **gmalaise**

Wanted: **05/30/2003**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Jonathan Klein**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - wage claims**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Wage claim lien priority

Instructions:

See Attached--1. Define "commercial lending institution."

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>
/?	gmalaise 05/29/2003	jdyer 05/30/2003		_____			
/1			rschluet 05/30/2003	_____	sbasford 05/30/2003	sbasford 05/30/2003	
/2	gmalaise	jdyer	rschluet	_____	sbasford	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	06/02/2003	06/02/2003	06/02/2003 _____		06/02/2003	06/02/2003	

FE Sent For:

<END>

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/1		<i>h g jld</i>	rschluet 05/30/2003		sbasford 05/30/2003	sbasford 05/30/2003	

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6-2-3

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Pre Topic:

No specific pre topic given

Topic:

Wage claim lien priority

Instructions:

See Attached--1. Define "commercial lending institution." 2. Clarify that priority applies to first \$3,000 earned in last six months even if total wages owed is greater or wages are owed for a longer period.

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>
/?	gmalaise	1 5/30 jld					

5-20-03 JF

FE Sent For:

<END>

Malaise, Gordon

From: Klein, Jonathan
Sent: Tuesday, May 27, 2003 10:28 AM
To: Malaise, Gordon; Marchant, Robert
Subject: Senate Sub Amendment to AB 2

I just finished a phone conversation with Nick Zavos regarding the Senate Substitute Amendment to AB 2. He may be calling to discuss two possible amendments to the amendment. 1.) a cross reference to define commercial lending, and 2.) rewording the "to the extent" language in ~~109.09 (2) (c)~~. Thanks for your help on this.

Jonathan Klein
Office of Senator Dale Schultz
(800) 978-8008
(608) 266-0703

Malaise, Gordon

From: Zavos, Nicholas
Sent: Wednesday, May 28, 2003 2:46 PM
To: Malaise, Gordon
Cc: Marchant, Robert
Subject: AB 2

Hi Gordon -

Jonathan in Sen. Schultz's office asked that I work with you on getting an amendment to the sub to AB 2. There are two changes they wanted.

1) First, they want to include a definition of "commercial lender." They sent me the attached memo on what they want to do with that.



942074_2.DOC

2) ~~Second, they wanted to modify that sentence in section 4 that we talked about the other day. We had talked about the fact that a litigious party might try to argue that only liens of \$3000 or less will get any superpriority. I think we both agreed that flipping the clauses around might solve the problem. Something to the effect of "Subject to subd. 3., up to \$3000 of a lien under par. (a) shall take precedence over the lien of a commercial lending institution that originates before the lien under par. (a) takes effect if the \$3000 represents wages earned by an employee within the 6 months preceding the date on which the employee files the wage claim under sub. (1) or brings an action under s. 109.03 (5) or the date on which the department receives the we claim under s. 109.10 (4) (a), whichever is applicable"~~

Unfortunately they are talking about having a hearing on this on Tuesday June 3.

Let me know if this makes sense and how that timeframe looks.

Nick

Nicholas R. Zavos
Staff Attorney
Wisconsin Legislative Council
(608) 266-1308
nicholas.zavos@legis.state.wi.us

Proposed Amendment to Wis. Stat. § 109.09

The Amendment: Revise the Draft Senate Substitute Amendment to 2003 Assembly Bill 2 (designated LRBs0071/1; RJM&GMM:cjs:rs) (the "Substitute Amendment") as follows:

1. Add a new subsection to section 109.09:

109.09(3) As used in this section:
 - (a) Other than in par. (b), "financial institution" has the same meaning as "financial institution" under s. 69.30(1)(b).
 - (b) "Commercial lending institution" has the same meaning as "financial institution" under s. 234.01(5k).

2. Delete ", as defined in s. 69.30(1)(b)," from proposed section 109.09(2)(c)3 (lines 4-5 and line 14 on page 4 of the Substitute Amendment).

Why the Provision Ought to be Amended: Among the goals of the Substitute Amendment is to treat bank and non-bank lenders the same with respect to future lending transactions, without retroactively weakening the security position of banks as to current loans or loan commitments. This goal is accomplished in part by distinguishing between banking entities on the one hand ("financial institutions") and non-bank lenders on the other hand ("commercial lending institutions").

As drafted, the Substitute Amendment introduces the term "commercial lending institution" without defining it. The term does not appear to be defined elsewhere in the Wisconsin Statutes. In contrast, the term "financial institution" is defined in several sections of the Wisconsin Statutes, but has a broader definition in some sections than in others. For example, in section 69.30(1)(b), "financial institution" is defined as "any bank, savings bank, savings and loan association or credit union that is authorized to do business under state or federal laws relating to financial institutions." In section 234.01(5k), on the other hand, "financial institution" has a broader scope: "a bank, savings bank, savings and loan association, credit union, insurance company, finance company, mortgage banker registered under s. 224.72, community development corporation, small business investment corporation, pension fund or other lender which provides commercial loans in this state."

The proposed amendment simply inserts definitions for "financial institution" (based on section 69.30(1)(b)) and "commercial lending institution" (based on section 234.01(5k)) into section 109.09 in accord with the intended meanings, while avoiding to the extent possible confusion over the source of those definitions. The amendment retains the current meaning of "financial institution" as used in section 109.09(2) for several years. The amendment adds a definition for "commercial lending institution" that is broader than financial institution—essentially including all lenders who provide commercial loans to borrowers who have operations or assets in Wisconsin.

2003

Date (time) needed Fri 5/30

LRBa 0567, 1

AMENDMENT

GMM:jld:

See form AMENDMENTS — COMPONENTS & ITEMS.

(S) A [AMENDMENT]

~~TO S A AMENDMENT (LRBa 1)~~

TO (S) A [SUBSTITUTE AMENDMENT] (LRBs 0071 11),

TO 2003 ~~SB SJR SR~~ (AB) ~~AJR AR~~ 2 (LRB 1)

At the locations indicated, amend the substitute amendment as follows:
(fill ONLY if "engrossed ..." or "as shown by")

#. Page 3, line 3: ~~delete lines 3 to 5 and substitute~~

#. Page 3, line 3: delete "1." and substitute "1m." ✓

#. Page 3, line 5: delete "1." and substitute "1m." ✓

#. Page 3, line 15: after that line insert:

#. Page ..., line ...:

~~SECRET~~

9
~~SECRET~~ AM'S

" SECTION ~~3E~~ 3m. CR, 109.09 (2)(c) 1. ✓

109.09 (2)(c) 1. In this paragraph: ✓

a. "Commercial lending institution" has the meaning given for "financial institution" in s. 234.01 (5K). ✓

b. "Financial institution" has the meaning given in s. 69.30 (1)(b). ✓

Page 4, line 4: delete "institution, as" and substitute "institution". ✓

Page 4, line 5: delete "defined in s. 69.30 (1)(b)". ✓

SECTION 109.09 (2)

Page 40, line 25: after "(c)" insert "1, and".

Page 41, line 10: delete "2." and substitute "1, 2, ~~number~~". ✓

(END) ✓

number

Malaise, Gordon

From: Zavos, Nicholas
Sent: Monday, June 02, 2003 12:02 PM
To: Malaise, Gordon
Subject: FW: Reinhart feedback: Amendments to AB2

I don't know that this one is necessary, actually.

-----Original Message-----

From: Klein, Jonathan
Sent: Monday, June 02, 2003 11:47 AM
To: Zavos, Nicholas
Subject: FW: Reinhart feedback: Amendments to AB2

-----Original Message-----

From: Doug Johnson [mailto:dqj@supranet.net]
Sent: Monday, June 02, 2003 11:38 AM
To: Jonathan Klein
Subject: FW: Reinhart feedback: Amendments to AB2

Jonathon:

After a more detailed review of the amendments, I am still satisfied that they accomplish the goals we have discussed.

I do have one final suggestion: Because the statute now will define "financial institution" in Sec. 109.09(2)(c)1., it is no longer necessary or appropriate to include the language "as defined in 69.30(1)(b)" following "financial institution." The current amendments eliminate two of the three times the Bill included this phrase. To eliminate the third instance, the following amendment could be added:

Page 4, line 14: delete "as defined in 69.30(1)(b),".

Thanks.

Doug



State of Wisconsin
2003 - 2004 LEGISLATURE
Today!

LRBa0567/A
GMM:jld:rs
2
RMR

SENATE AMENDMENT,
TO SENATE SUBSTITUTE AMENDMENT (LRBs0071/1),
TO 2003 ASSEMBLY BILL 2

✓
Page 4, line 14: delete ~~as defined~~
~~institution~~ "as defined in s. 69.30 (1) (b), " ✓

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 1. Page 3, line 3: delete "1." and substitute "1m."
- 3 2. Page 3, line 5: delete "1." and substitute "1m."
- 4 3. Page 3, line 15: after that line insert:
- 5 "SECTION 3m. 109.09 (2) (c) 1. of the statutes is created to read:
- 6 109.09 (2) (c) 1. In this paragraph:
- 7 a. "Commercial lending institution" has the meaning given for "financial
- 8 institution" in s. 234.01 (5k).
- 9 b. "Financial institution" has the meaning given in s. 69.30 (1) (b)."
- 10 4. Page 4, line 4: delete "institution, as" and substitute "institution".
- 11 5. Page 4, line 5: delete "defined in s. 69.30 (1) (b)."



1 **6.** Page 40, line 25: after “section 109.09 (2) (c)” insert “1. and”.

2 **7.** Page 41, line 10: delete “2.” and substitute “1., 2.”.

3 **(END)**

Q0567/2

S. A. 2

to S. Sub. Amnt. 1

to AB-2

In enrolling, the following
correction was made.

#. Page 2, line 1: delete
~~with~~ "S."

DMG



State of Wisconsin
2003-2004 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 2,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 2**

Prepared by the Legislative Reference Bureau
(October 6, 2003)

In enrolling, the following correction was made:

1. Page 2, line 1: delete "s."