

2003 ASSEMBLY BILL 591

October 15, 2003 – Introduced by Representatives F. LASEE, KERKMAN, M. LEHMAN, SERATTI, HAHN, HUNDERTMARK, LADWIG, McCORMICK, OLSEN, HINES, KESTELL, WEBER, VAN ROY, TOWNSEND, BIES, LEMAHIEU, GUNDERSON and VRAKAS, cosponsored by Senators COWLES, ROESSLER, WIRCH, LASSA and BRESKE. Referred to Committee on Financial Institutions.

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

Analysis by the Legislative Reference Bureau

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. Requires documents pertaining to security interests that are *filed* with the offices of registers of deeds to meet most of the format and legibility standards for documents *recorded* with those offices.

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2. Requires documents pertaining to security interests and certain other records that are filed with the offices of registers of deeds to be indexed in the real estate records index, rather than other separate indexes.

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. The bill also clarifies 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, 2010, the requirement that the statewide lien system be maintained.

8. Makes changes to the current law dealing with the filing of notices of federal tax liens and related documents to make the duties of the registers of deeds with regard to federal tax liens consistent with their duties with regard to other documents filed or recorded with their offices.

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

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 is amended to read:
 2 59.43 (1) (L) File all documents pertaining to security interests, as defined in
 3 s. 401.201 (37) (a), that are required or authorized by law to be filed with the register.
 4 Except as otherwise prescribed by the department of financial institutions under
 5 subch. V of ch. 409, these documents shall be executed ~~on white or light colored sheets~~
 6 of paper, ~~8 or 8.5 inches wide and 5, 7, 10.5, or 14 inches long.~~ Whenever there is
 7 ~~offered for filing any document that varies more than one-eighth inch from the~~

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1 approved size, or that is not on a standard form prescribed by ch. 409 or by the
2 department of financial institutions, then in addition to the regular filing fee an
3 additional filing fee shall be charged by the register of deeds, as prescribed by sub.
4 (2). No assignment, release, or other instrument shall be offered for filing that is
5 executed or endorsed on any other document, but each shall be a separate and
6 distinct document, except those assignments or notices that are printed or written
7 on and immediately following the original agreement or financing statement, offered
8 for filing at the same time, shall be considered as one document. All of these
9 documents shall be legibly written, and shall have the names of the debtor and
10 secured party plainly printed or typed on the document and shall provide a space for
11 filing data of the register of deeds on the outside of the document in a manner that
12 satisfies the requirements set forth in sub. (2m) (b) 1. to 5.

13 **SECTION 2.** 59.43 (1) (m), (n) and (o) of the statutes are amended to read:

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

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

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1 ~~termination statements, foreclosure affidavits, extensions and releases pertaining~~
2 ~~to such financing statements or chattel security documents. If the financing~~
3 ~~statement evidences the creation of a security interest in fixtures, it also shall be~~
4 ~~entered in the tract index if one is kept in the county index the statement or document~~
5 ~~in the real estate records index under sub. (9).~~

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

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

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

18 **SECTION 4.** 59.43 (1) (um) of the statutes, as created by 2003 Wisconsin Act
19 (this act), is repealed.

20 **SECTION 5.** 59.43 (2) (ag) of the statutes is repealed and recreated to read:

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

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

3 **SECTION 6.** 59.43 (2) (ag) of the statutes, as affected by 2003 Wisconsin Act
4 (this act), is repealed and recreated to read:

5 59.43 (2) (ag) 1. For recording any instrument entitled to be recorded in the
6 office of register of deeds, \$8 for the first page if the county maintains a land
7 information office under s. 59.72 (3) and \$4 for the first page if the county does not
8 maintain such an office, and \$2 for each additional page, except that no fee may be
9 collected for recording a change of address that is exempt from a filing fee under s.
10 185.83 (1) (b).

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

13 **SECTION 7.** 59.43 (2) (e) of the statutes is repealed and recreated to read:

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

17 **SECTION 8.** 59.43 (2) (e) of the statutes, as affected by 2003 Wisconsin Act
18 (this act), is repealed and recreated to read:

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

23 **SECTION 9.** 59.72 (5) of the statutes, as affected by 1997 Wisconsin Act 27, is
24 repealed and recreated to read:

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1 59.72 (5) LAND RECORD MODERNIZATION FUNDING. (a) Before the 16th day of each
2 month a register of deeds shall submit to the land information board \$7 from the fee
3 for recording or filing the first page of each instrument that is recorded or filed under
4 s. 59.43 (2) (ag) 1. or (e), less any amount retained by the county under par. (b).

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

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

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

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

18 **SECTION 10.** 59.72 (5) of the statutes, as affected by 2003 Wisconsin Act (this
19 act), is repealed and recreated to read:

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

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

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1 134.17 (4) For each recording, the register of deeds shall receive the fee
2 specified for filing recording under s. 59.43 (2) (ag).

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

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

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

13 409.519 (9) INAPPLICABILITY TO REAL-PROPERTY-RELATED FILING OFFICE.
14 Subsection (2) does not apply to a filing office described in s. 409.501 (1) (a).

15 **SECTION 14.** 409.523 (3) (intro.) of the statutes is amended to read:

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

19 **SECTION 15.** 409.528 of the statutes, as affected by 2003 Wisconsin Act (this
20 act), is repealed.

21 **SECTION 16.** 409.528 (1) (title) of the statutes is repealed.

22 **SECTION 17.** 409.528 (1) of the statutes is renumbered 409.528.

23 **SECTION 18.** 409.528 (2) of the statutes is repealed.

24 **SECTION 19.** 779.97 (4) (a) 2. of the statutes is amended to read:

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1 779.97 (4) (a) 2. Any other officer described in sub. (2), the officer shall endorse
2 ~~thereon his or her identification and the date and time of receipt~~ make the
3 ~~endorsements required under s. 59.43 (1) (e) and (f) and forthwith file it~~
4 ~~alphabetically or record the notice and~~ enter it in an alphabetical the index showing
5 the name and address of the person named in the notice, the date and time of receipt,
6 the title and address of the officer or entity certifying the lien, and the total amount
7 ~~appearing on the notice of lien under s. 59.43 (9).~~ Notices under this subdivision are
8 ~~subject to s. 59.43 (4) (a).~~ subject to s. 59.43 (4) (a).

9 **SECTION 20.** 779.97 (4) (b) 1. of the statutes is amended to read:

10 779.97 (4) (b) 1. If a refiling of a notice of lien is presented to the department
11 of financial institutions for filing, the filing officer shall cause the refiled notice of
12 federal lien to be dealt with in accordance with s. 409.519 as if the refiling were a
13 continuation statement within the meaning of chs. 401 to 411, ~~except that the time~~
14 ~~period in par. (d) shall apply instead of the time period in s. 409.515.~~

15 **SECTION 21.** 779.97 (4) (c) 2. of the statutes is amended to read:

16 779.97 (4) (c) 2. If Except as otherwise provided in this subdivision, if a
17 certificate of release or other document associated with a recorded notice of federal
18 ~~tax lien~~ is presented for filing or recording with any other filing officer specified in
19 sub. (2), the officer shall ~~enter the certificate with the date of filing in any~~
20 ~~alphabetical federal lien index on the line where the original notice of lien is entered~~
21 ~~and may then remove the notice of federal lien and any related refiling of a notice of~~
22 ~~lien, certificate of nonattachment, discharge or subordination from the files,~~
23 ~~provided that the officer shall keep the certificate of release or a microfilm or other~~
24 ~~photographic record, or in the case of the department of financial institutions, or a~~
25 ~~register of deeds if authorized under s. 59.43 (4), a microfilm or other photographic~~

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1 ~~record or optical disk or electronic record, of the certificate of release in a file,~~
2 ~~separate from those containing currently effective notices of federal liens, for a~~
3 ~~period of 30 years after the date of filing of the certificate of release treat the~~
4 ~~certificate or document in the same manner as a notice filed or recorded under par.~~
5 ~~(a) 2. The officer shall also reference the certificate or document to the recorded~~
6 ~~notice of federal lien by document number in the index maintained under s. 59.43 (9).~~

7 **SECTION 22.** 779.97 (4) (d) of the statutes is repealed.

8 **SECTION 23.** 779.97 (4) (e) of the statutes is amended to read:

9 779.97 (4) (e) Upon request of any person, the filing officer shall issue a
10 ~~certificate showing whether there is on file, on the date and hour stated therein,~~
11 ~~certified copy of any notice of federal lien or any related refiling of a notice of lien,~~
12 ~~certificate of nonattachment, discharge or subordination filed on or after~~
13 ~~February 1, 1968, naming a particular person, and if a notice or certificate is on file,~~
14 ~~giving the date and hour of filing of each notice or certificate. The officer may charge~~
15 ~~the fee specified under s. 59.43 (2) (b) for the copy.~~ If the filing officer is the
16 department of financial institutions, the filing officer shall include the information
17 concerning the notice of federal lien, or notice or certificate affecting a federal lien,
18 in the information communicated or otherwise made available in response to a
19 request under s. 409.523 (3), and the fee charged shall be that charged in accordance
20 with s. 409.525.

21 **SECTION 24.** 779.97 (5) (a) of the statutes is repealed and recreated to read:

22 779.97 (5) (a) The fee for filing and indexing each notice of lien or certificate
23 or notice affecting the lien is the fee specified under s. 59.43 (2) (ag).

24 **SECTION 25.** 1997 Wisconsin Act 27, section 9456 (3m), as last amended by 2003
25 Wisconsin Act 33, is amended to read:

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1 [1997 Wisconsin Act 27] Section 9456 (3m) ELIMINATION OF LAND INFORMATION
2 BOARD AND WISCONSIN LAND COUNCIL. The treatment of sections 15.07 (1) (b) 16.,
3 15.105 (16), 16.968 (by SECTION 142am), 20.505 (1) (title) (by SECTION 666h), 20.505
4 (1) (ka) (by SECTION 669am), 23.27 (3) (a) (by SECTION 769ad), 23.325 (1) (a), 36.09 (1)
5 (e), 36.25 (12m) (intro.), 59.72 (1) (a) and (b), and (3) (intro.), (a) and (b) ~~and~~ (5) and
6 92.10 (4) (a) of the statutes, the repeal of sections 16.966 (1), (2) and (4), 16.967,
7 20.505 (1) (ie), (ig), (ij) and (ks), 23.32 (2) (d), ~~59.43 (1) (u)~~ and 59.72 (1) (am), (3) (c)
8 and (4) of the statutes and SECTION 9101 (1) of this act take effect on September 1,
9 2005.

10 **SECTION 26. Effective dates.** This act takes effect on the day after publication,
11 except as follows:

12 (1) FILING FEES. The repeal of section 59.43 (1) (um) of the statutes and the
13 repeal and recreation of sections 59.43 (2) (ag) (by SECTION 6) and (e) (by SECTION 8)
14 and 59.72 (5) (by SECTION 10) of the statutes take effect on September 1, 2005.

15 (2) STATEWIDE LIEN REGISTRATION SYSTEM. The repeal of section 409.528 (by
16 SECTION 15) of the statutes takes effect on July 1, 2010.

17 (END)