



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Assembly Bill 328	Assembly Substitute Amendment 1
<i>Memo published: October 25, 2011</i>	<i>Contact: Dan Schmidt, Senior Analyst (267-7251)</i>

2011 Assembly Bill 328 would create certain exclusive procedures for the foreclosure of a mortgage or a lien for assessments on a time-share estate, or a security interest, or a lien for assessments on a time-share license.

Under the bill, an entity that wishes to foreclose on a *time-share estate* would be required to provide certain notices and the right to cure to the time-share owner. Generally, foreclosure of time-share estates would be conducted on a non-judicial basis and under timelines prescribed by the bill. However, if the time-share owner raised an objection to the use of non-judicial process, the foreclosing entity must use the procedure under ch. 846, Stats., to foreclose the mortgage or lien.

Under the bill, an entity who wishes to foreclose on a *time-share license* would proceed in accordance with s. 409.610, Stats., following provision of notice to the time-share owner.

Entities that foreclose upon *time-share estates or licenses* under the non-judicial procedures created by the bill must waive the right to bring an action for any deficiency that may remain due after the sale of the time-share estate or license.

Assembly Substitute Amendment 1 to 2011 Assembly Bill 328

As compared to Assembly Bill 328, Assembly Substitute Amendment 1 would make certain revisions to the proposed procedures for the foreclosure of a mortgage or a lien for assessments on a time-share estate, or a security interest, or a lien for assessments on a time-share license.

In particular, under the substitute amendment:

- The procedures relating to non-judicial foreclosures of *time-share estates* would be a permissive option for foreclosing entities. Accordingly, foreclosing entities would retain the

right to pursue a foreclosure in the same manner and subject to the same requirements as foreclosures of mortgages on real property. Additionally, under the substitute amendment, time-share owners would retain the right to object to the use of the non-judicial foreclosure process.

- For *time-share licenses*, a security interest or lien for assessments may be foreclosed under chs. 401 to 411, Stats., the Wisconsin Uniform Commercial Code.
- Following the non-judicial foreclosure of a *time-share estate*, the foreclosing entity must waive the right to bring an action for any deficiency that may remain due after the sale of the time-share estate.

Legislative History

On October 25, 2011, the Assembly Committee on Tourism, Recreation and State Properties introduced and adopted Assembly Substitute Amendment 1, and recommended passage of Assembly Bill 238, as amended, on successive votes of Ayes, 12; Noes, 0; and Absent, 2.

DWS:ksm