

2013 DRAFTING REQUEST

Bill

Received: 1/7/2014 Received By: pkahler
Wanted: As time permits Same as LRB:
For: Nikiya Harris (608) 266-2500 By/Representing: Cindy McGinnis
May Contact: Drafter: pkahler
Subject: Real Estate - foreclosures Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Harris@legis.wisconsin.gov
Carbon copy (CC) to: Fern.Knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Demolition bond payable by foreclosure plaintiff

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>
/?	pkahler 1/9/2014	wjackson 1/10/2014		_____			
/1			jmurphy 1/13/2014	_____	srose 1/13/2014	srose 1/13/2014	Local

FE Sent For:
→ At Intro.

<END>

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/?	pkahler	1/11/10					

FE Sent For: *gm + 1/13*

<END>

Fax: (608) 266-7381

Kahler, Pam

From: Knocke, Ryan
Sent: Tuesday, January 07, 2014 1:30 PM
To: Kahler, Pam
Subject: RE: compnaion bills for Sen. Harris

You have our permission for Senator Harris to use them!

From: Kahler, Pam
Sent: Tuesday, January 07, 2014 1:29 PM
To: Knocke, Ryan
Subject: compnaion bills for Sen. Harris

Hi, Ryan:

I forgot to ask you if it is okay to copy the "guts" of your drafting files for the files for the companion bills – otherwise they would be empty.

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Mcginnis, Cindy
Sent: Tuesday, January 07, 2014 1:06 PM
To: Kahler, Pam
Subject: RE: Senate companion to 2 Assembly bills

Pam-

Why don't you go ahead and fix the Act 87 problem and change the second instance of "Special tax" to "special charge".

Thanks.

Cindy

From: Kahler, Pam
Sent: Tuesday, January 07, 2014 11:37 AM
To: Mcginnis, Cindy
Subject: RE: Senate companion to 2 Assembly bills

Hi, Cindy:

Yes, I can do that, but I do want you to be aware of something. LRB-2431 treats s. 66.0413 (1) (f), which was amended in Act 87. Act 87 changed the way that razing costs are collected, from a special tax to a special charge. I believe that Act 87 inadvertently neglected to change both instances of "special tax" to "special charge" and that there is now a conflict in the law. When I draft your companion bill, I will have to incorporate the change from Act 87. Do you also want me to change the second instance of "special tax" to "special charge"? If you are unsure, the Milwaukee City Treasurer should have an opinion.

Pam

From: Mcginnis, Cindy
Sent: Tuesday, January 07, 2014 8:48 AM
To: Kahler, Pam
Subject: Senate companion to 2 Assembly bills

Pam-

Sen. Harris would like to have Senate companion bills drafted to 3 bills you drafted for Rep. Goyke. Those bills are LRB 2431, demolition bond bill, LRB 2774, security lighting bill, and LRB 3431 property stabilization bill. If you can have the jackets sent over on those 3 bills we'd greatly appreciate it.

Thanks!

Cindy McGinnis
Chief of Staff
Senator Nikiya Harris
6th Senate District
P.O. Box 7982
Madison, WI 53707
(608) 266-2500
Toll Free: 1-877-474-2000



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2431/2
PJK:wlj:jam

stops

run not run

3919/1

2013 BILL

(1-a)
Dante

Regen

- 1 AN ACT *to amend* 66.0413 (1) (f) and 66.0413 (1) (i); and *to create* 846.03 of the
- 2 statutes; **relating to:** requiring a demolition bond in foreclosure actions.

Analysis by the Legislative Reference Bureau

The statutes specify a procedure for municipalities (cities, villages, and towns) to follow for the razing of old, dilapidated, or out-of-repair buildings. The municipality may order the owner of such a building to repair it, if the building can be made safe by reasonable repairs, or to raze it. If the cost of repair would exceed a specified percentage in relation to the assessed value of the building, repairs are presumed unreasonable. The order is served on the owner like a summons and specifies a time within which the repairing or razing must be done. If the owner does not comply with the order, the municipality may commence a legal action for a court order requiring the owner to raze the building or may proceed to raze the building through a public agency or by contract with a private party. The cost of razing the building may be charged against the real estate on which the building was located and, if so, becomes a lien on the real estate and may be assessed and collected as a special tax. A first class city (Milwaukee) may enact ordinances with alternative or additional provisions governing razing buildings.

charge

This bill requires the plaintiff in a mortgage foreclosure action to post a surety bond with the clerk of circuit court when the action is commenced. The bond is to guarantee reimbursement by the plaintiff to the municipality in which the property in foreclosure is located for up to \$15,000 in costs incurred by the municipality if the municipality razes a building on the property during the foreclosure action. The clerk is required to return the bond to the plaintiff if a building on the property is not

BILL

razed before the first of any of the following occurs: 1) the foreclosure action is dismissed; 2) the mortgagor redeems the property (pays the amount owed); or 3) the court confirms the sale of the property at the end of the foreclosure action. The bill prohibits any of the costs incurred by the plaintiff from being recovered from the mortgagor or from being included in the amount of the judgment, in the amount of any deficiency, in the amount that the mortgagor must pay to redeem the property, or in the costs of the foreclosure action.

For further information see the *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.** 66.0413 (1) (f) of the statutes is amended to read:

2 66.0413 (1) (f) *Failure to comply with order; razing building.* An order under
3 par. (b) shall specify the time within which the owner of the building is required to
4 comply with the order and shall specify repairs, if any. If the owner fails or refuses
5 to comply within the time prescribed, the building inspector or other designated
6 officer may proceed to raze the building through any available public agency or by
7 contract or arrangement with private persons, or to secure the building and, if
8 necessary, the property on which the building is located if unfit for human habitation,
9 occupancy, or use. The cost of razing or securing the building may be charged in full
10 or in part against the real estate upon which the building is located, and if that cost
11 is so charged it is a lien upon the real estate and may be assessed and collected as
12 a special tax. Any portion of the cost charged against the real estate that is not
13 reimbursed under s. 632.103 (2) from funds withheld from an insurance settlement,
14 or under s. 846.03 by the plaintiff in a foreclosure action against the real estate, may
15 be assessed and collected as a special tax.

16 **SECTION 2.** 66.0413 (1) (i) of the statutes is amended to read:

Insert 2-15

BILL

1 66.0413 (1) (i) *Removal of personal property.* If a building subject to an order
2 under par. (b) contains personal property or fixtures ~~which~~ that will unreasonably
3 interfere with the razing or repair of the building or if the razing makes necessary
4 the removal, sale, or destruction of the personal property or fixtures, the building
5 inspector or other designated officer may order in writing the removal of the personal
6 property or fixtures by a date certain. The order shall be served as provided in par.
7 (d). If the personal property or fixtures are not removed by the time specified the
8 inspector may store, sell, or, if it has no appreciable value, destroy the personal
9 property or fixture. If the property is stored the amount paid for storage is a lien
10 against the property and against the real estate and, to the extent that the amount
11 is not reimbursed under s. 632.103 (2) from funds withheld from an insurance
12 settlement or under s. 846.03 by the plaintiff in a foreclosure action against the real
13 estate, shall be assessed and collected as a special tax against the real estate if the
14 real estate is owned by the owner of the personal property and fixtures. If the
15 property is stored the owner of the property, if known, shall be notified of the place
16 of storage and if the property is not claimed by the owner it may be sold at the
17 expiration of 6 months after it has been stored. The handling of the sale and the
18 distribution of the net proceeds after deducting the cost of storage and any other costs
19 shall be as specified in par. (j) and a report made to the circuit court as specified in
20 par. (j). A person affected by any order made under this paragraph may appeal as
21 provided in par. (h).

22 **SECTION 3.** 846.03 of the statutes is created to read:

23 **846.03 Bond for demolition costs.** (1) In this section, "property" means the
24 property that is subject to the mortgage foreclosure action.

BILL

1 (2) Upon commencement of a mortgage foreclosure action, the plaintiff shall
2 file with the clerk of circuit court for the county in which the action is commenced a
3 bond furnished by a surety company authorized to do business in this state. The bond
4 shall guarantee reimbursement to the municipality in which the property is located
5 for up to \$15,000 in costs associated with the demolition of any building or structure
6 or any portion of a building or structure located on the property.

7 (3) If, at any time before an occurrence under sub. (4), the municipality in which
8 the property is located razes a building or structure or any portion of a building or
9 structure on the property using the procedure under s. 66.0413 or under a local
10 ordinance relating to demolition, the plaintiff shall reimburse the municipality for
11 up to \$15,000 in costs incurred by the municipality in the course of enforcing s.
12 66.0413 or the local ordinance, including reasonable administrative costs incurred
13 in connection with that enforcement, such as expenses for inspection, clerical,
14 supervisory, and attorney services.

15 (4) Unless sub. (3) applies, the clerk shall return the bond to the plaintiff upon
16 the first of any of the following to occur:

17 (a) The foreclosure action is dismissed.

18 (b) The mortgagor redeems the property.

19 (c) The court confirms the sale of the property.

20 (5) No costs incurred under this section may be recovered from the mortgagor.
21 No amount paid by the plaintiff under this section may be included in the amount
22 of the judgment, the amount of any deficiency due the plaintiff after sale of the
23 property, the amount required to redeem the property under s. 846.13, or as costs
24 under this chapter.

25 **SECTION 4. Initial applicability.**

BILL

The treatment of section 846.03 of the statutes

1

(1) ~~This act~~ first applies to mortgage foreclosure actions that are commenced

2

on the effective date of this subsection.

3

(END)

and (i)

(2) The treatment of section 66.0413 (1) (f) of the statutes first applies to a building that is razed on the effective date of this subsection.

D - note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3919/ins
PJK:.....

rm not seen

INSERT 2-15

1 **SECTION 1.** 66.0413 (1) (f) of the statutes, as affected by 2013 Wisconsin Act 87,
2 is amended to read:

3 66.0413 (1) (f) *Failure to comply with order; razing building.* An order under
4 par. (b) shall specify the time within which the owner of the building is required to
5 comply with the order and shall specify repairs, if any. If the owner fails or refuses
6 to comply within the time prescribed, the building inspector or other designated
7 officer may proceed to raze the building through any available public agency or by
8 contract or arrangement with private persons, or to secure the building and, if
9 necessary, the property on which the building is located if unfit for human habitation,
10 occupancy or use. The cost of razing or securing the building may be charged in full
11 or in part against the real estate upon which the building is located, and if that cost
12 is so charged it is a lien upon the real estate and may be assessed and collected as
13 a special charge, but may not be assessed and collected as a special tax. Any portion
14 of the cost charged against the real estate that is not reimbursed under s. 632.103
15 (2) from funds withheld from an insurance settlement, or under s. 846.03 by the
16 plaintiff in a foreclosure action against the real estate, may be assessed and collected
17 as a special charge, but may not be assessed and collected as a special tax.

18 **History:** Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413; 2001 a. 103; 2005 a. 442; 2013 a. 87.

(END OF INSERT 2-15)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3919/2dn
PJK:.....

WJ
r m not run

Date

This companion bill differs from LRB-2431 in that demolition costs charged against the demolished property may be assessed and collected as a special charge and not as a special tax. This change makes the bill consistent with Act 87. Note that s. 66.0413 (1) (i) requires the cost of storage of personal property that is charged against demolished property to be assessed and collected as a special tax. Although it would be more consistent to assess and collect this charge as a special charge also, since it relates to the cost of storage of personal property and not to the cost of demolition, it is not in direct conflict with the change made to s. 66.0413 (1) (f) by Act 87.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3919/1dn

PJK:wlj:jm

January 10, 2014

This companion bill differs from LRB-2431 in that demolition costs charged against the demolished property may be assessed and collected as a special charge and not as a special tax. This change makes the bill consistent with Act 87. Note that s. 66.0413 (1) (i) requires the cost of storage of personal property that is charged against demolished property to be assessed and collected as a special tax. Although it would be more consistent to assess and collect this charge as a special charge also, since it relates to the cost of storage of personal property and not to the cost of demolition, it is not in direct conflict with the change made to s. 66.0413 (1) (f) by Act 87.

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Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Rose, Stefanie

From: Mcginnis, Cindy
Sent: Monday, January 13, 2014 11:17 AM
To: LRB.Legal
Subject: Draft Review: LRB -3919/1 Topic: Demolition bond payable by foreclosure plaintiff

Please Jacket LRB -3919/1 for the SENATE.