



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Senate Bill 629	Senate Amendment 1
<i>Memo published: March 14, 2016</i>	<i>Contact: David Moore, Staff Attorney (266-1946)</i>

2015 SENATE BILL 629

2015 Senate Bill 629 makes several changes to the foreclosure process. First, the bill reduces the redemption period applicable to noncommercial property from 12 months to 6 months when a plaintiff seeks a deficiency judgment and from 6 months to 3 months when a plaintiff elects to waive judgment for any deficiency that remains due after sale of the mortgaged premises. However, if the mortgagor of a noncommercial property attempts in good faith to sell the mortgaged premises and has entered a listing agreement with a real estate broker, the bill specified that the redemption periods are extended to 8 months when a plaintiff seeks a deficiency judgment and 5 months when a deficiency judgment is waived.

Next, the bill revises the foreclosure procedure for abandoned property. In *Bank of New York Mellon v. Carson*, 2015 WI 15, the Wisconsin Supreme Court interpreted s. 846.102, Stats., to permit any party, and a city, town, village, or county, to move that a property be deemed abandoned and required that sale of an abandoned premises must be made as soon as reasonable upon expiration of 5 weeks from when the date of judgment is entered. Under the bill, only the plaintiff or a city, town, village, or county may move that a property be deemed abandoned. Additionally, the bill requires the plaintiff to take one of the following actions with regard to abandoned noncommercial property within 12 months after judgment is entered:

- Hold a sale of the mortgaged premises and have the sale confirmed.
- Release or satisfy the mortgage lien and vacate the judgment of foreclosure.

If neither of those actions occur, any party may petition the court to order the sale of the premises.

For abandoned commercial property, the bill specifies that abandoned property need not be sold, but that a sale may be held after the expiration of 5 weeks from the date judgment is entered.

Finally, the bill clarifies that, in actions for which deficiency is waived, notice of foreclosure sale of noncommercial property may be given during a redemption period.

Generally, the modifications to redemption periods proposed by the bill first apply to mortgages recorded on or after the effective date of the bill. The treatments under the bill relating to foreclosure of abandoned properties first apply to actions commenced on the effective date of the bill.

SENATE AMENDMENT 1

Senate Amendment 1 makes several changes to the bill. First, it modifies the initial applicability of the modifications to redemption periods proposed by the bill from first applying to mortgages “recorded” on the effective date to first applying to mortgages “executed” on the effective date.

Additionally, the amendment applies to commercial property the process, described above, that requires specific actions within 12 months of the date judgment is entered and clarifies that the plaintiff may take action no sooner than 5 weeks after judgment is entered.

BILL HISTORY

Senator Lasee offered Senate Amendment 1 to Senate Bill 629 on March 2, 2016. On March 3, 2016, the Senate Committee on Insurance, Housing, and Trade voted to recommend adoption of Senate Amendment 1 and passage of Senate Bill 629, as amended, both on votes of Ayes, 3; Noes, 2.

DM:jal