

State of Wisconsin



1995 Senate Bill 293

Date of enactment: **April 24, 1996**

Date of publication*: **May 8, 1996**

1995 WISCONSIN ACT 283

AN ACT to amend 708.01; and to create 708.11 of the statutes; relating to: assignments of rents, leases and profits.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 708.01 of the statutes is amended to read:

708.01 Effect of mortgage. A mortgage on real property creates a lien on the property mortgaged; except for the lien and subject to s. 708.11, the mortgagor retains the interest that the mortgagor had at the time of mortgage until that interest is divested by some later act.

SECTION 2. 708.11 of the statutes is created to read:

708.11 Assignments of rents, leases and profits.

(1) In this section, "assignment" means any assignment, pledge, transfer or any other conveyance of an interest in rents, leases or profits, whether contained in a mortgage, security agreement or other document executed by the assignor.

(2) When any debt or other obligation is secured by an assignment, the assignment shall be effective as to the assignor upon the execution and delivery of the assignment to the assignee. The assignment shall be perfected as to all subsequent purchasers, mortgagees, lien creditors, and all other 3rd parties for all purposes from the time and date of recording the assignment in the register of deeds office of the county in which the real property affected by the assignment is located. The assignment shall be governed by ch. 706 and shall be considered a conveyance for the purposes of ch. 706. An assignee who enforces an assignment in accordance with its terms shall

not be considered to be a mortgagee in possession with attendant liability.

(3) (a) Unless otherwise agreed upon in writing, the assignee shall be entitled to enforce the assignment without the necessity of any of the following:

1. Furnishing notice to the assignor or any lessee.
2. Obtaining possession of the real property.
3. Impounding the rents.
4. Securing the appointment of a receiver.
5. Taking any other affirmative action.

(b) Unless otherwise agreed upon in writing, the assignee may not exercise any right to collect rents or profits created under an assignment until the assignor is in default on the obligation to the assignee. Enforcement of the assignment shall not be considered a cure of an event of default notwithstanding the collection of rents or profits in excess of any delinquent amounts due the assignee.

(4) Any tenant or lessee who, upon notice from an assignee, makes rent payments to the assignee in accordance with the terms of the assignment shall be given credit for the payment as if the payment had been made to the assignor, but nothing in this section shall affect the other rights and obligations of the assignor or the tenant or lessee as to one another.

(5) This section does not invalidate assignments of leases, rents or profits that were perfected by other means before the effective date of this subsection [revisor inserts date].

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 3. Initial applicability.

(1) This act first applies to assignments in effect or entered into on the effective date of this subsection.
