

# State of Wisconsin



2005 Senate Bill 99

Date of enactment: **May 23, 2006**  
Date of publication\*: **June 5, 2006**

## 2005 WISCONSIN ACT 442

AN ACT *to repeal* 801.09 (2) (c) and 802.06 (1m); *to renumber and amend* 801.09 (2) (a); *to amend* 66.0413 (2) (c) 1., 102.23 (1) (c), 102.835 (14), 108.225 (14), 125.12 (2) (d), 801.09 (2) (intro.), 801.09 (2) (b), 801.095 (3), 801.095 (4), 802.06 (1), 802.06 (6) and 802.09 (1); and *to create* 102.23 (1) (cm) and 801.09 (2) (a) 2. and 3. of the statutes; **relating to**: the time period for service of a responsive pleading.

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

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

66.0413 (2) (c) 1. If an owner fails to remedy or improve the defect in accordance with the written notice under par. (b) within the 30-day period specified in the written notice, the building inspector or other designated officer shall apply to the circuit court of the county in which the building is located for an order determining that the building constitutes a public nuisance. As a part of the application for the order from the circuit court the building inspector or other designated officer shall file a verified petition which recites the giving of written notice, the defect in the building, the owner's failure to comply with the notice and other pertinent facts. A copy of the petition shall be served upon the owner of record or the owner's agent if an agent is in charge of the building and upon the holder of any encumbrance of record under sub. (1) (d). The owner shall reply to the petition within ~~45~~ 20 days following service upon the owner. Upon application by the building inspector or other designated officer the circuit court shall set promptly the petition for hearing. Testimony shall be taken by the cir-

cuit court with respect to the allegations of the petition and denials contained in the verified answer. If the circuit court after hearing the evidence on the petition and answer determines that the building constitutes a public nuisance, the court shall issue promptly an order directing the owner of the building to remedy the defect and to make such repairs and alterations as may be required. The court shall set a reasonable period of time in which the defect shall be remedied and the repairs or alterations completed. A copy of the order shall be served upon the owner as provided in sub. (1) (d). The order of the circuit court shall state in the alternative that if the order of the court is not complied with within the time fixed by the court, the court will appoint a receiver or authorize the building inspector or other designated officer to proceed to raze the building under par. (d).

**SECTION 2.** 102.23 (1) (c) of the statutes is amended to read:

102.23 (1) (c) ~~The~~ Except as provided in par. (cm), ~~the~~ commission shall serve its answer within ~~45~~ 20 days after the service of the complaint, and, within the like time, the adverse party may serve an answer to the complaint, which answer may, by way of counterclaim or cross complaint, ask for the review of the order or award referred to in the complaint, with the same effect as if the

\* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

party had commenced a separate action for the review thereof.

**SECTION 3.** 102.23 (1) (cm) of the statutes is created to read:

102.23 (1) (cm) If an adverse party to the proceeding brought under par. (a) is an insurance company, the insurance company may serve an answer to the complaint within 45 days after the service of the complaint.

**SECTION 4.** 102.835 (14) of the statutes is amended to read:

102.835 (14) ANSWER BY 3RD PARTY. Within 45 20 days after the service of the levy upon a 3rd party, the 3rd party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the uninsured employer, including a description of the property or the rights to property and the nature and dollar amount of any such obligation. If the 3rd party is an insurance company, the insurance company shall file an answer with the department within 45 days after the service of the levy.

**SECTION 5.** 108.225 (14) of the statutes is amended to read:

108.225 (14) ANSWER BY 3RD PARTY. Within 45 20 days after the service of the levy upon a 3rd party, the 3rd party shall file an answer with the department stating whether the 3rd party is in possession of or obligated with respect to property or rights to property of the debtor, including a description of the property or the rights to property and the nature and dollar amount of any such obligation. If the 3rd party is an insurance company, the insurance company shall file an answer with the department within 45 days after the service of the levy.

**SECTION 6.** 125.12 (2) (d) of the statutes is amended to read:

125.12 (2) (d) *Judicial review.* The action of any municipal governing body in granting or failing to grant, suspending or revoking any license, or the failure of any municipal governing body to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the municipality. The procedure on review shall be the same as in civil actions instituted in the circuit court. The person desiring review shall file pleadings, which shall be served on the municipal governing body in the manner provided in ch. 801 for service in civil actions and a copy of the pleadings shall be served on the applicant or licensee. The municipal governing body, applicant or licensee shall have 45 20 days to file an answer to the complaint. Following filing of the answer, the matter shall be deemed at issue and hearing may be had within 5 days, upon due notice served upon

**SECTION 11.** 801.095 (3) of the statutes is amended to read:

801.095 (3) NO PERSONAL SERVICE; COMPLAINT SERVED AT THE SAME TIME.

the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed within 10 days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

**SECTION 7.** 801.09 (2) (intro.) of the statutes is amended to read:

801.09 (2) (intro.) A direction to the defendant summoning and requiring defendant to serve upon the plaintiff's attorney, whose address shall be stated in the summons, either an answer to the complaint if a copy of the complaint is served with the summons or a demand for a copy of the complaint. The summons shall further direct the defendant to serve the answer or demand for a copy of the complaint within the following periods:

**SECTION 8m.** 801.09 (2) (a) of the statutes is renumbered 801.09 (2) (a) 1. and amended to read:

801.09 (2) (a) 1. Except as provided in ~~par. (c) subds. 2. and 3.~~, within 45 20 days, exclusive of the day of service, after the summons has been served personally upon the defendant or served by substitution personally upon another authorized to accept service of the summons for the defendant; ~~or~~

**SECTION 8n.** 801.09 (2) (a) 2. and 3. of the statutes are created to read:

801.09 (2) (a) 2. If the defendant is the state or an officer, agent, employee, or agency of the state, as to that defendant, within 45 days, exclusive of the day of service, after the summons has been served personally upon the defendant or served by substitution personally upon another authorized to accept service of the summons for the defendant.

3. Within 45 days, exclusive of the day of service, after the summons has been served personally upon the defendant or served by substitution personally upon another authorized to accept service of the summons for the defendant, if any of the following applies:

- a. A defendant in the action is an insurance company.
- b. Any cause of action raised in the complaint is founded in tort.

**SECTION 9.** 801.09 (2) (b) of the statutes is amended to read:

801.09 (2) (b) Within 45 40 days after a date stated in the summons, exclusive of such date, if no such personal or substituted personal service has been made, and service is made by publication. The date so stated in the summons shall be the date of the first required publication.

**SECTION 9m.** 801.09 (2) (c) of the statutes is repealed.

STATE OF WISCONSIN

CIRCUIT COURT:

.... COUNTY

A. B.  
Address  
City, State Zip Code  
, Plaintiff

File No. ....

vs.

S U M M O N S

C. D.  
Address ....  
City, State Zip Code  
, Defendant

(Case Classification Type): .... (Code No.)

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is also served upon you, states the nature and basis of the legal action.

Within ~~(20)~~(45) 40 days after ....., .... (year), you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is ....., and to ....., Plaintiff's attorney, whose address is .....

You may have an attorney help or represent you. If you do not provide a proper answer within ~~(20)~~(45) 40 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: ....., .... (year)

Signed: .... ....

A. B., Plaintiff  
or  
E. F., Plaintiff's Attorney  
State Bar No.: ....  
Address: ....  
City, State Zip Code: ....  
Phone No: ....

SECTION 12. 801.095 (4) of the statutes is amended to read:

801.095 (4) NO PERSONAL SERVICE; COMPLAINT NOT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT:

.... COUNTY

A. B.  
Address  
City, State Zip Code  
, Plaintiff

File No. ....

vs.

S U M M O N S

C. D.  
Address ....  
City, State Zip Code  
, Defendant

(Case Classification Type): .... (Code No.)

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you.

Within ~~(20)~~(45) 40 days after ....., .... (year), you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is ....., and to ....., Plaintiff's attorney, whose address is .....

You may have an attorney help or represent you. If you do not demand a copy of the complaint within ~~(20)~~(45) 40 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding

money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: ....., .... (year)

Signed: .... ..

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.: ....

Address: ....

City, State Zip Code: ....

Phone No: ....

**SECTION 13.** 802.06 (1) of the statutes is amended to read:

802.06 (1) WHEN PRESENTED. Except as provided in sub. (1m) or when a court dismisses an action or special proceeding under s. 802.05 (3), a defendant shall serve an answer within 45 20 days after the service of the complaint upon the defendant. Except as provided in sub. (1m), if ~~if~~ a guardian ad litem is appointed for a defendant, the guardian ad litem shall have 45 20 days after appointment to serve the answer. A party served with a pleading stating a cross-claim against the party shall serve an answer thereto within 45 20 days after the service upon the party. The plaintiff shall serve a reply to a counterclaim in the answer within 45 20 days after service of the answer. The state or an agency of the state or an officer, employee, or agent of the state shall serve an answer to the complaint or to a cross-claim or a reply to a counterclaim within 45 days after service of the pleading in which the claim is asserted. If any pleading is ordered by the court, it shall be served within 45 20 days after service of the order, unless the order otherwise directs. If a defendant in the action is an insurance company, or if any cause of action raised in the original pleading, cross-claim, or counterclaim is founded in tort, the periods of time to serve a reply or answer shall be 45 days. The service of a motion permitted under sub. (2) alters these periods of time as follows, unless a different time is fixed by order of the court: if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action; or if the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

**SECTION 14.** 802.06 (1m) of the statutes is repealed.

**SECTION 15.** 802.06 (6) of the statutes is amended to read:

802.06 (6) MOTION TO STRIKE. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted upon motion made by a party within 45 20 days after the service of the pleading upon

the party, ~~or within 20 days after the service if the proceeding is to foreclose or otherwise enforce a lien or security interest,~~ or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, scandalous, or indecent matter. If a defendant in the action is an insurance company, if any cause of action raised in the original pleading, cross-claim, or counterclaim is founded in tort, or if the moving party is the state or an officer, agent, employee, or agency of the state, the 20-day time period under this subsection is increased to 45 days.

**SECTION 16.** 802.09 (1) of the statutes is amended to read:

802.09 (1) AMENDMENTS. A party may amend the party's pleading once as a matter of course at any time within 6 months after the summons and complaint are filed or within the time set in a scheduling order under s. 802.10. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given at any stage of the action when justice so requires. A party shall plead in response to an amended pleading within 45 20 days after service of the amended pleading, ~~or within 20 days after the service if the proceeding is to foreclose or otherwise enforce a lien or security interest,~~ unless (a); a) the court otherwise orders ~~or (b); or b)~~ no responsive pleading is required or permitted under s. 802.01 (1). If a defendant in the action is an insurance company, if any cause of action raised in the original pleading, cross-claim, or counterclaim is founded in tort, or if the party pleading in response is the state or an officer, agent, employee, or agency of the state, the 20-day time period under this subsection is increased to 45 days.

**SECTION 17. Initial applicability.**

(1) This act first applies to actions commenced on the effective date of this subsection.

**SECTION 18. Effective date.**

(1) This act takes effect on the first day of the 4th month beginning after publication.