



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 752**

February 19, 2004 – Offered by Representative ALBERS.

- 1 **AN ACT to create** 807.16 of the statutes; **relating to:** remedies in certain actions
2 concerning building code or zoning ordinance violations.

Analysis by the Legislative Reference Bureau

This substitute amendment specifies that, in any action in which a party seeks an order directing a person to raze, move, or modify a structure located on real property owned by the person as a result of the structure being in violation of a building code or zoning ordinance of a county, city, village, or town (political subdivision), any political subdivision that issued a permit for the construction of the structure must be made a party to the action. If the permit was issued based upon an accurate application, if the structure was constructed in accordance with the permit, if the violation is not due to damage to or other change in the structure arising after the construction of the structure, and if the person who owns the property consents, the court may order the political subdivision to grant a variance for the structure. With certain limited exceptions, if the court orders the person to raze the structure, the court must order the political subdivision to pay to the person an amount equal to the sum of all of the following: a) the reasonable attorney fees incurred by the person in defending the action; b) any fees paid by the person to the political subdivision with regard to the construction of the structure; c) the total cost of labor and materials for construction of the structure; and d) the total cost of razing the structure. With certain limited exceptions, if the court orders the person to move or modify the structure, the court must order the political subdivision to pay to the

person an amount equal to the sum of all of the following: a) the reasonable attorney fees incurred by the person in defending the action; b) any fees paid by the person to the political subdivision with regard to the construction of the structure; and c) the total cost of moving or modifying the structure. The remedies provided under this substitute amendment may be ordered in addition to or in lieu of any other remedy provided by law.

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

1 **SECTION 1.** 807.16 of the statutes is created to read:

2 **807.16 Actions concerning building code or zoning ordinance**
3 **violations.** (1) In this section, "political subdivision" means a county, city, village,
4 or town.

5 (2) In any action in which a party seeks an order directing a person to raze,
6 move, or modify a structure located on real property owned by the person as a result
7 of the structure being in violation of a building code or zoning ordinance of a political
8 subdivision, any political subdivision that issued a permit for the construction of the
9 structure shall be made a party to the action.

10 (3) If the permit was issued based upon an accurate application, if the structure
11 was constructed in accordance with the permit, if the violation is not due to damage
12 to or other change in the structure arising after the construction of the structure, and
13 if the person who owns the property consents, the court may order the political
14 subdivision to grant a variance for the structure.

15 (4) If the permit was issued based upon an accurate application, if the structure
16 was constructed in accordance with the permit, if the violation is not due to damage
17 to or other change in the structure arising after the construction of the structure, and
18 if the court orders the person to raze the structure, the court shall order the political
19 subdivision to pay to the person an amount equal to the sum of all of the following:

1 (a) The reasonable attorney fees incurred by the person in defending the action.

2 (b) Any fees paid by the person to the political subdivision with regard to the
3 construction of the structure.

4 (c) The total cost of labor and materials for construction of the structure.

5 (d) The total cost of razing the structure.

6 **(5)** If the permit was issued based upon an accurate application, if the structure
7 was constructed in accordance with the permit, if the violation is not due to damage
8 to or other change in the structure arising after the construction of the structure, and
9 if the court orders the person to move or modify the structure, the court shall order
10 the political subdivision to pay to the person an amount equal to the sum of all of the
11 following:

12 (a) The reasonable attorney fees incurred by the person in defending the action.

13 (b) Any fees paid by the person to the political subdivision with regard to the
14 construction of the structure.

15 (c) The total cost of moving or modifying the structure.

16 **(6)** The court may order the remedies authorized under subs. (4) and (5) in
17 addition to or in lieu of any other remedy provided by law.

18 **SECTION 2. Initial applicability.**

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

21 (END)