



1999 ASSEMBLY BILL 385

June 15, 1999 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Insurance.

1 **AN ACT to amend** 601.73 (2) (c) of the statutes; **relating to:** time limits on the
2 service of process on the commissioner of insurance (suggested as remedial
3 legislation by the office of the commissioner of insurance).

Analysis by the Legislative Reference Bureau

Under current law, as amended by 1997 Wisconsin Act 187, a defendant has 45 days after the receipt of a complaint to answer the complaint. Before 1997 Wisconsin Act 187, the defendant had 20 days after the receipt of a complaint to answer the complaint. Under current law, the commissioner of insurance is constituted as the attorney to receive service of a summons, orders and other legal pleadings for any insurer who does not have a registered agent for service of process in this state. Current law provides that a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance until the expiration of 20 days after the commissioner mails a copy of the legal documents to the defendant. This bill changes that 20-day waiting period to 45 days for the entering of a default judgment when substituted service is made on the commissioner of insurance.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

ASSEMBLY BILL 385

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the office of the commissioner of insurance and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 601.73 (2) (c) of the statutes is amended to read:

2 601.73 (2) (c) *Default judgment.* No plaintiff or complainant is entitled to a
3 judgment by default in any proceeding in which process is served under this section
4 and s. 601.72 until the expiration of 20 45 days ~~from~~ after the date of mailing of the
5 process under par. (b).

NOTE: 1997 Wisconsin Act 187 changed from 20 to 45 days the period of time which the defendant has, after receipt of a complaint, to answer the complaint. However, it did not make a corresponding change in current law under which the commissioner of insurance is the attorney to receive service of a summons, orders or other legal proceedings for an insurer who does not have a registered agent for receipt of service of process in this state. This provision amends the provision under which a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance to provide that the judgment may not be entered until the expiration of 45 days after the date on which the commissioner mails a copy of the legal documents to the defendant.

6 **SECTION 9326. Initial applicability; insurance.**

7 (1) SUBSTITUTED SERVICE. The treatment of section 601.73 (2) (c) of the statutes
8 first applies to service of process made on the commissioner of insurance on the
9 effective date of this subsection.

NOTE: This provision provides that the change in the entering of a default judgment from 20 to 45 days after the date of mailing will first apply to any service of process made on the commissioner on the effective date of the provision.

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(END)