



## 2005 ASSEMBLY BILL 597

August 5, 2005 - Introduced by Representatives ALBERS, AINSWORTH, TOWNSEND, MUSSER, McCORMICK, GRONEMUS and MONTGOMERY, cosponsored by Senators REYNOLDS and BROWN. Referred to Committee on Property Rights and Land Management.

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

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### *Analysis by the Legislative Reference Bureau*

This bill 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 on the basis that the structure violates 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. 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. 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

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modifying the structure. The remedies provided under this bill may be ordered in addition to or in lieu of any other remedy provided by law.

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*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 on the basis  
7 that the structure violates 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) The court may order a political subdivision that is made a party to an action  
11 under sub. (2) to grant a variance for the structure if the construction permit was  
12 issued based upon an accurate application, if the structure was constructed in  
13 accordance with the permit, if the violation is not due to damage to or other change  
14 in the structure arising after the construction of the structure, and if the person who  
15 owns the property consents to the variance.

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

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