



1995 ASSEMBLY BILL 397

May 24, 1995 - Introduced by Representatives KAUFERT, GREEN, GOETSCH, KREIBICH, OTT, HAHN, GUNDERSON, KELSO, VRAKAS, SERATTI and GROTHMAN, cosponsored by Senators PETAK, FITZGERALD and PANZER. Referred to Committee on Financial Institutions.

1 **AN ACT to amend** 708.01; and **to create** 708.11 of the statutes; **relating to:**
2 assignments of rents and leases.

Analysis by the Legislative Reference Bureau

This bill identifies when an assignment of rents becomes effective (an assignment is a transfer of the right to receive rental payments from the assignor, the person transferring the right, to another). Under the bill, an assignment is effective as to the assignor when the signed assignment is delivered to the assignee. The assignment is effective as to all others when it is recorded in the office of the register of deeds.

The bill also specifies that the assignee may enforce the assignment and ensures that a person who makes a rental payment to an assignee receives credit for that payment.

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

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

4 **708.01 Effect of mortgage.** A mortgage on real property creates a lien on the
5 property mortgaged; except for the lien and subject to s. 708.11, the mortgagor
6 retains the interest that the mortgagor had at the time of mortgage until that
7 interest is divested by some later act.

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

1 **708.11 Assignments of rents and leases. (1)** In this section, “assignment”
2 means any assignment, pledge, transfer or any other conveyance of an interest in
3 rents or leases, or both, whether contained in a mortgage, security agreement or
4 other document executed by the assignor.

5 **(2)** When any debt or other obligation is secured by an assignment, the
6 assignment shall be effective as to the assignor upon the execution and delivery of
7 the assignment to the assignee. The assignment shall be perfected as to all
8 subsequent purchasers, mortgagees, lien creditors, and all other 3rd parties for all
9 purposes from the time and date of recording the assignment in the register of deeds
10 office of the county in which the real property affected by the assignment is located.
11 The assignment shall be governed by ch. 706 and shall be considered a conveyance
12 for the purposes of ch. 706. An assignee who enforces an assignment in accordance
13 with its terms shall not be considered to be a mortgagee in possession with attendant
14 liability.

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

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

22 (b) Enforcement of the assignment shall not be considered a cure of an event
23 of default notwithstanding the collection of rents in excess of any delinquent
24 amounts due the assignee.

