



**SENATE AMENDMENT 5,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2009 SENATE BILL 20**

April 28, 2009 – Offered by Senator GROTHMAN.

1           At the locations indicated, amend the substitute amendment as follows:

2           **1.** Page 7, line 3: after that line insert:

3           “(2m) (a) In any action under sub. (1) (a), the court may, in its discretion, award  
4           to a party the costs and attorney fees incurred in asserting any claim or defense on  
5           which that party prevailed.

6           (b) 1. In any action under sub. (1) (a), if the court finds at any time during the  
7           action that a party has asserted or continued a frivolous claim or defense, the court  
8           may, in its discretion, award to the party prevailing against that claim or defense the  
9           costs and attorney fees incurred in prevailing against that claim or defense.

10           2. The court may assess the costs and fees awarded under subd. 1. fully against  
11           either the party asserting or continuing the claim or defense or the attorney

1 representing the party or may assess those costs and fees so that the party and the  
2 attorney each pay a portion of those costs and fees.

3 3. To find that a claim or defense is frivolous under subd. 1., the court must find  
4 that the claim or defense was asserted or continued in bad faith, solely for the  
5 purpose of harassing or maliciously injuring another, or that the party or the party's  
6 attorney knew, or should have known, that the claim or defense was without any  
7 reasonable basis in law or equity and could not be supported by a good-faith  
8 argument for an extension, modification, or reversal of existing law, or both.”

9 (END)