



State of Wisconsin
2011 - 2012 LEGISLATURE

September 2011 Special Session



LRBa1744/2
PJH:kjf:jf

**SENATE AMENDMENT 1,
TO SENATE BILL 12**

October 25, 2011 – Offered by Senator ZIPPERER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 1: before that line insert:

3 “**SECTION 1d.** 807.015 of the statutes is created to read:

4 **807.015 Settlement offers; fee shifting cases. (1)** This section applies to
5 any action brought pursuant to a statute that permits or requires a court to award
6 attorney fees to a prevailing party.

7 **(2)** After issue is joined but at least 20 days before the trial, the defendant may
8 serve upon the plaintiff a written offer to allow judgment to be taken against the
9 defendant for the sum, or property, or to the effect therein specified, with costs. If
10 the plaintiff accepts the offer and serves notice thereof in writing, before trial and
11 within 10 days after receipt of the offer, the plaintiff may file the offer, with proof of
12 service of the notice of acceptance, and the clerk must thereupon enter judgment
13 accordingly. If notice of acceptance is not given, the offer cannot be given as evidence

1 nor mentioned on the trial. If the offer of judgment is not accepted and the plaintiff
2 fails to recover a more favorable judgment, including prejudgment interest and costs
3 incurred by the plaintiff up to the date the offer was made, the plaintiff shall not
4 recover costs but defendant shall recover costs as would be payable to a prevailing
5 plaintiff.

6 (3) After issue is joined but at least 20 days before trial, the defendant may
7 serve upon the plaintiff a written offer that if the defendant fails in the defense the
8 damages be assessed at a specified sum. If the plaintiff accepts the offer and serves
9 notice thereof in writing before trial and within 10 days after receipt of the offer and
10 prevails upon the trial, either party may file proof of service of the offer and
11 acceptance and the damages will be assessed accordingly. If notice of acceptance is
12 not given, the offer cannot be given as evidence nor mentioned on the trial. If the offer
13 is not accepted and if damages assessed in favor of the plaintiff do not exceed the
14 damages offered, neither party shall recover costs.

15 (4) After issue is joined but at least 20 days before trial, the plaintiff may serve
16 upon the defendant a written offer of settlement for the sum, or property, or to the
17 effect therein specified, with costs. If the defendant accepts the offer and serves
18 notice thereof in writing, before trial and within 10 days after receipt of the offer, the
19 defendant may file the offer, with proof of service of the notice of acceptance, with the
20 clerk of court. If notice of acceptance is not given, the offer cannot be given as
21 evidence nor mentioned on the trial. If the offer of settlement is not accepted and the
22 plaintiff recovers a more favorable judgment, the plaintiff shall recover double the
23 amount of the taxable costs.

24 (5) If there is an offer of settlement by a party under this section which is not
25 accepted and the party recovers a judgment, less prejudgment interest and costs

1 accrued after the date of the offer of settlement, which is greater than or equal to the
2 amount specified in the offer of settlement, the party is entitled to interest at the
3 annual rate of 12 percent on the amount recovered from the date of the offer of
4 settlement until the amount is paid to the appropriate party or to the court as
5 security for the judgment pending disposition and any appeal. Interest under this
6 section is in addition to any other compensation allowed by law or contract, but in
7 lieu of interest computed under ss. 814.04 (4) and 815.05 (8). Taxable costs under this
8 section include attorney fees awarded by statute, contract, or common law. In any
9 offer made under this section, the offerer may include a provision that the costs
10 specified in the offer may be determined by the court after acceptance of the offer.

11 (6) Subsections (2) to (5) apply to offers which may be made by any party to any
12 other party who demands a judgment or setoff against the offering party.”

13 **2.** Page 2, line 1: delete “**SECTION 1**” and substitute “**SECTION 1m**”.

14 (END)