



1997 ASSEMBLY BILL 620

November 24, 1997 - Introduced by Representatives RUTKOWSKI, BOCK, PLOUFF and R. YOUNG, cosponsored by Senators PLACHE and FARROW. Referred to Committee on Housing.

1 **AN ACT** *to renumber and amend* 846.01; and *to create* 846.01 (2) and (3) of the
2 statutes; **relating to:** prohibiting the use of the real estate foreclosure process
3 for certain types of defaults.

Analysis by the Legislative Reference Bureau

Under current law, in actions for the foreclosure of mortgages on real estate, if the plaintiff prevails, the court shall render judgment of foreclosure and sale of the mortgaged premises to pay the obligation secured by the mortgage, with costs. This bill prohibits the use of this foreclosure process if all payments on the obligation secured by the mortgage are paid when due and the default under the mortgage is based solely on: 1) the death of the mortgagor or a guarantor under the mortgage; or 2) an adverse change in the financial condition of the mortgagor or in the value of the mortgaged property.

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

4 **SECTION 1.** 846.01 of the statutes is renumbered 846.01 (1) and amended to
5 read:
6 846.01 (1) (title) JUDGMENT OF FORECLOSURE AND SALE. ~~In~~ Except as provided
7 in subs. (2) and (3), in actions for the foreclosure of mortgages upon real estate, if the

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1 plaintiff ~~reecover~~ prevails, the court shall render judgment of foreclosure and sale, as
2 hereinafter provided in this chapter, of the mortgaged premises or such part thereof
3 as may be sufficient to pay the amount adjudged to be due upon the mortgage and
4 obligation secured ~~thereby~~ by the mortgage, with costs. ~~But such judgment shall not~~
5 ~~be entered until twenty days after the lis pendens has been filed.~~

6 **SECTION 2.** 846.01 (2) and (3) of the statutes are created to read:

7 846.01 (2) WHEN JUDGMENT MAY BE ENTERED. A court may not enter a judgment
8 of foreclosure and sale under this chapter until 20 days after the date on which a lis
9 pendens is filed.

10 (3) WHEN USE OF FORECLOSURE PROCESS IS PROHIBITED. A court may not enter a
11 judgment of foreclosure and sale under this chapter for a mortgaged premises if all
12 payments on the obligation secured by the mortgage are paid when due and the
13 default under the mortgage is based solely on one or more of the following:

14 (a) The death of the mortgagor or a guarantor under the mortgage.

15 (b) An adverse change in the financial condition of the mortgagor or in the value
16 of the mortgaged property.

17 **SECTION 3. Initial applicability.**

18 (1) This act first applies to mortgages entered into, extended or renewed after
19 the effective date of this subsection.

20 **SECTION 4. Effective date.**

21 (1) This act takes effect on the first day of the 7th month beginning after
22 publication.

23 (END)