

Recent Wisconsin Legislation Affecting the Real Estate Industry

Below is an update on recent Wisconsin legislation affecting the real estate industry.

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Protections for Tenants in Residential Foreclosures

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Notices from Landlords. If a foreclosure action has been commenced against residential rental property, Wisconsin Statute section 704.35 requires the owner of such property to notify any prospective tenants (a) that the action has been commenced against the property, and (b) if a judgment has been entered, the date on which the redemption period expires. The redemption period is a period of time after a foreclosure judgment has been issued in which the property owner has the opportunity to pay the judgment in full and retain the property. In Wisconsin, redemption periods vary from two months to one year. Any residential lease entered into by a landlord and a tenant from the commencement of a foreclosure action through the expiration of the redemption period must include a statement signed by the tenant acknowledging receipt of the notice provisions set forth above. The failure to include such a signed statement results in the lease being voidable at the tenant's option.

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Notices from Lenders. Lenders also now have a duty pursuant to Wisconsin Statute section 846.35 to provide the following written notices to the tenants of residential rental property if such property becomes the subject of a foreclosure action:

1. no later than five days after the foreclosure action is filed, notice that the lender has commenced a foreclosure action;
2. no later than five days after the judgment of foreclosure is entered, notice that the lender has been granted the judgment and notice of the date on which the redemption period ends; and
3. notice of the date and time of the confirmation of sale hearing.

Each notice from the lender must be given by either personal service or certified mail, not by simply posting the notice at the property. This will undoubtedly lead to an increase in the overall cost of the foreclosure process by forcing lenders to obtain tenant information from the individual leases or directly from the property



owner. Failure of a lender to provide the required notices as set forth above may result in a court awarding a tenant \$250 in damages plus attorney fees.

Extended Possession of Premises. If a residential tenancy is terminated as a result of a foreclosure judgment and sale, the tenant may retain possession of the tenant's unit for up to two months after the end of the month in which the sale of the property takes place; provided the tenant pays rent for the extension period at the same rate as applied immediately before the foreclosure sale. In addition, the tenant may withhold rent for the last period the tenant retains possession in an amount equal to the security deposit. Wisconsin Statute section 846.35(2).

The foregoing statutory provisions relating to protections for tenants in residential foreclosures apply to foreclosure actions commenced after March 6, 2009.

Building Contractor Registration

Beginning July 1, 2009, a new administrative rule requires all building contractors that are involved in the construction or modification of public buildings, places of employment, public swimming pools, water attractions and 1- and 2-family dwellings to register with the Wisconsin Department of Commerce, Safety and Buildings Division, unless the contractor already holds another type of credential issued by the Department. Wisconsin Administrative Code Section Comm. 5.30. The registration applies to a contracting business, and is not required for individual employees or partners of the business. A contractor registration is valid for a 4-year term and costs \$100 if applied for electronically and \$115 if applied for by paper. The goal of the registration requirement is to allow the Department to more effectively inform and educate contractors with respect to changes in codes and regulations, best practices and other issues affecting the industry.

Agricultural-Use Value Tax

Reinhart previously sent out a client alert regarding a proposed amendment to the agricultural-use value tax that would have modified the definition of agricultural land for purposes of property taxation to exclude any land that is platted or zoned for residential, commercial, or industrial use. As many of you have heard, this controversial property tax provision was removed from the state budget last month.

In a positive sign against future attempts to modify this agricultural-use tax



provision, Governor Doyle indicated that he was glad the item was removed from the budget. "I would hate to see what would happen if use value was threatened," Doyle said. "This was a last minute budget item that I didn't agree with and I was glad to see the conference committee eliminate it before it reached my desk."

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