



STATE REPRESENTATIVE
18th ASSEMBLY DISTRICT



February 6, 2014
Public Testimony of State Representative Evan Goyke
Re: Assembly Bill 625

Good Morning Chairman Murtha and committee members. Thank you for the opportunity to testify in support of this important and needed legislation.

Assembly Bill 625 addresses the ghosts of the foreclosure crisis. Empty, abandoned homes are the most visible and lasting impact of the Great Recession in my community. It is irrelevant, for purposes of Assembly Bill 625, of how, why, or who's at fault for this crisis. This bill seeks to address the reality that we have a growing number of vacant homes, most of which have been foreclosed upon, and those vacant homes cost local taxpayers and homeowners in massive ways.

When a home becomes vacant, problems follow. Many of the key stakeholders in my community, and others, feel powerless to intervene and current law places restrictions on that intervention. There are valid reasons for some restrictions. In this area, we are asked to balance the intimate right of homeowners with that of neighbors and the larger community. With that balance in mind, Assembly Bill 625 limits the authority to enter a property unless two criteria are met: First, that a foreclosure lawsuit has been filed on the property; Second, that there are grounds to believe that the property has been abandoned.

Abandonment has a statutory definition, which I've attached to my testimony. These are the criteria that will be used by both the municipality and the lender in establishing abandonment.

Once abandonment has been established, the bill extends the authority to enter, to inspect, and to secure the property. The bill allows those authorized to enter the power to "take any action necessary to preserve or protect the property or public health and safety." This means the ability to winterize, secure fire hazards like live wires or gas leaks, and better prevent the deterioration of the property by natural or human forces.

The bill also requires communication between the County Clerk, the municipality, and local law enforcement when a foreclosure lawsuit is filed. The bill requires that the County Clerk of Courts communicate the address and plaintiff's name to the municipality and local law enforcement agency to promote heightened attention and protection to properties in foreclosure.

I would like to thank the Chairman for adding this bill to the committee schedule and giving it a public hearing today. Over the past few days I have met with many Republican members of the legislature, both Assembly and Senate, to discuss this bill. I will continue to do so over the coming weeks. During these meetings, and discussions with stakeholders, I have received great support for this piece of legislation. I also received positive feedback from members regarding a few concerns they have and suggested changes. I appreciate their feedback and willingness to work with me to improve the bill.

Should the following be agreeable to Chairman Murtha and members of the committee, I plan to offer two friendly amendments to Assembly Bill 625 following today's public hearing.

The first will add a procedure for a municipality to establish, and file in writing with the court having jurisdiction over the foreclosure lawsuit, the grounds for the municipality's belief that the property is abandoned. Also, the municipality must include the grounds for the need to enter the abandoned property.

The second will limit the amount of immunity extended under the bill. As currently written, the bill extends immunity unless the person entering the property acts with "willful misconduct." I believe the standard should be lowered to eliminate the "willful" element and replace it with gross negligence. This standard would allow greater access to justice should those entering an abandoned property act inappropriately.

It is my hope that these amendments will seek to address the suggestions made by my colleagues while still keeping the intent of the bill intact. As this process continues, I promise to remain open to suggestions, criticism, and to discuss any amendments that committee members may bring forward.

Thank you very much for your time and consideration. I am happy to answer any questions.

Wisconsin Statute

846.102 - Abandoned premises.

(1) In an action for enforcement of a mortgage lien if the court makes an affirmative finding upon proper evidence being submitted that the mortgaged premises have been abandoned by the mortgagor and assigns, judgment shall be entered as provided in s. 846.10 except that the sale of such mortgaged premises shall be made upon the expiration of 5 weeks from the date when such judgment is entered. Notice of the time and place of sale shall be given under ss. 815.31 and 846.16 and placement of the notice may commence when judgment is entered. In this section "abandoned" means the relinquishment of possession or control of the premises whether or not the mortgagor or the mortgagor's assigns have relinquished equity and title.

(2) In addition to the parties to the action to enforce a mortgage lien, a representative of the city, town, village, or county where the mortgaged premises are located may provide testimony or evidence to the court under sub. (1) relating to whether the premises have been abandoned by the mortgagor. In determining whether the mortgaged premises have been abandoned, the court shall consider the totality of the circumstances, including the following:

(a) Boarded, closed, or damaged windows or doors to the premises.

(b) Missing, unhinged, or continuously unlocked doors to the premises.

846.102(2)(c) (c) Terminated utility accounts for the premises.

(d) Accumulation of trash or debris on the premises.

(e) At least 2 reports to law enforcement officials of trespassing, vandalism, or other illegal acts being committed on the premises.

(f) Conditions that make the premises unsafe or unsanitary or that make the premises in imminent danger of becoming unsafe or unsanitary.

History: 1973 c. 189; Sup. Ct. Order, 67 Wis. 2d 585, 768, 783 (1975); 1975 c. 41 s. 52; 1975 c. 199; Stats. 1975 s. 846.102; 1977 c. 304; 2011 a. 136.



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February 6, 2014

Committee on Housing and Real Estate

Re: Testimony on Assembly Bill 625

Chairman Murtha and Committee Members:

As a result of the foreclosure crisis, the City of Milwaukee has seen a dramatic increase in the number of homes foreclosed upon and in the foreclosure process. A major problem is the abandonment of these properties.

While foreclosure represents a significant financial loss and a personal tragedy for the families who experience it, the costs are not confined to individual households. High rates of foreclosure have far-reaching consequences for neighborhoods, property values and real estate markets. In addition, municipal resources are stretched to address the numerous issues associated with the growing number of foreclosed properties.

It is critical to prevent properties that are undergoing a lender foreclosure from becoming blighting influences in our community. The first step in that process is to know when they become abandoned and to then trigger actions to keep the building secured and weather tight.

Currently, many parties that are involved in the lender foreclosure process state that while they want to protect their investment, there is too much liability to enter into a property they don't own to do the necessary maintenance to preserve the property. This bill resolves the liability issue. As such, it is reasonable to conclude that the foreclosing entities will ensure that these abandoned buildings will be secured, monitored and weatherized.

Additionally, the bill provides for right of entry for utility and municipal workers after it is determined that the building is abandoned. This is critical to deal with damaged equipment and utilities to prevent further damage to the building from freezing pipes or explosions due to gas leaks. This is especially important with the amount of theft that is occurring on abandoned buildings. After scavengers hit a vacant foreclosed property, they often leave the building in a hazardous condition.

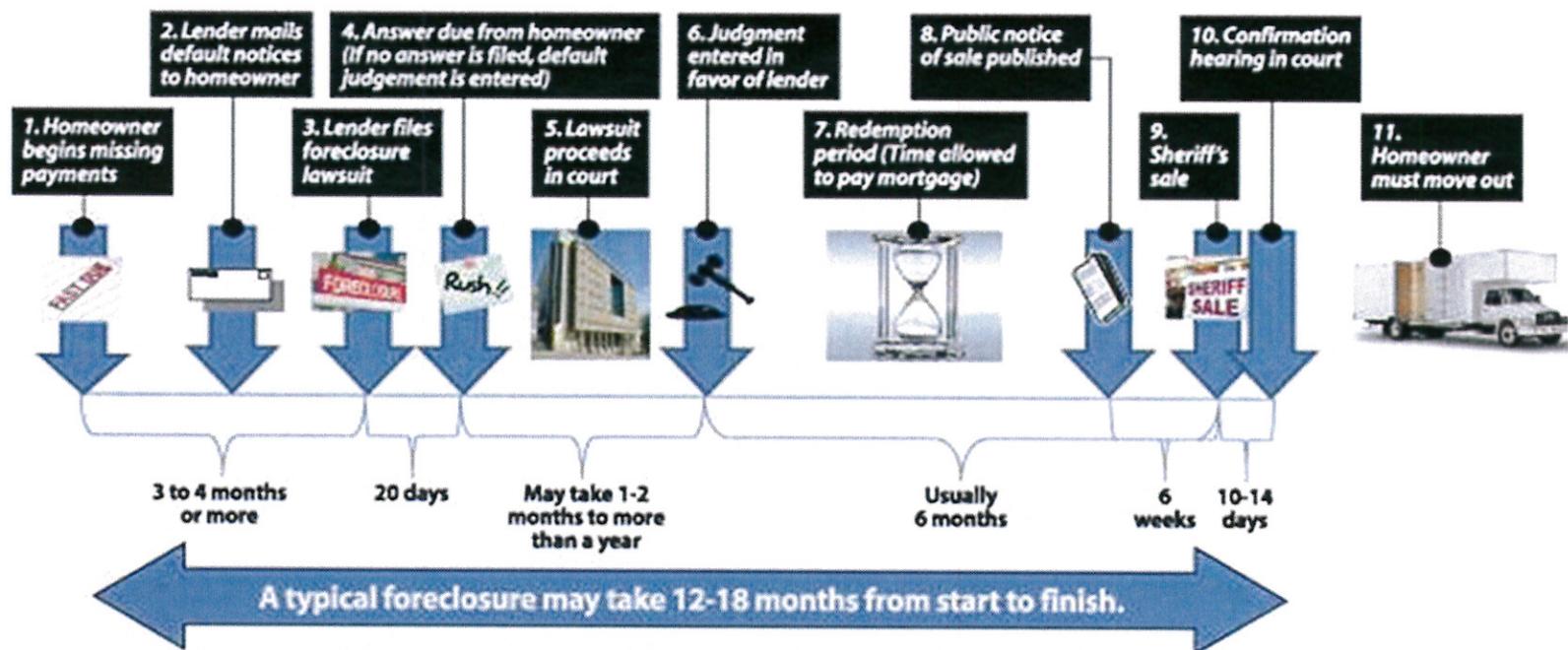
Finally, this bill ensures that localities are notified when an Intent to Foreclose action is filed. This knowledge is critical in preventing these properties from becoming blighting influences in our neighborhoods.

The City of Milwaukee encourages the committee to support AB 625, which would allow municipalities, utility companies providing service to the foreclosed property, and the plaintiff in a foreclosure action the authority to enter a property in foreclosure to stabilize and preserve it. This would provide all parties with a status equivalent to property owners.

Thank you for your consideration in this matter.

For more information, please contact:
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Wisconsin foreclosure timeline



* In order to illustrate the foreclosure process, this illustrates what happens after the court enters judgment in favor of the lender. However, there are many possible defenses to a foreclosure lawsuit that can change the time frame or outcome of a foreclosure suit.