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LEGISLATIVE ALERT: NEW RULES AND PROCEDURES REGARDING MORTGAGE FORECLOSURES

Wisconsin recently enacted Act 376 modifying certain aspects of mortgage foreclosure proceedings, most notably a reduction to the period of time that owner-occupied, non-commercial property may be redeemed and the process of declaring a property abandoned.

Under current law, a judgment of foreclosure must specify a length of time, called a redemption period, during which a mortgagor may redeem the mortgaged property by paying the entire amount of the mortgage debt. Upon redemption, the judgment of foreclosure and the underlying mortgage are discharged, and the mortgagor retains the property. Act 376 reduces the foreclosure redemption periods applicable to mortgages upon owner-occupied, non-commercial property that are executed on or after April 26, 2016:

- The period of redemption is reduced from 12 months to 6 months after entry of judgment. This new 6-month redemption period may be extended to 8 months if, upon motion of a mortgagor, a court finds that the mortgagor is attempting in good faith to sell the mortgaged premises and has entered into a listing agreement with a licensed broker.
- If a mortgagee, however, waives its right to a judgment for any deficiency that may remain following sale, the newly enacted 6-month redemption period is cut in half to 3 months. Similarly, the redemption period in such a case may be extended to 5 months if, upon motion of a mortgagor, a court finds that the mortgagor is attempting in good faith to sell the mortgaged premises and has entered into a listing agreement with a licensed broker.

Act 376 also provides that only a foreclosing plaintiff or the city, town, village or county where the mortgaged property is located may petition the presiding court for a finding that the mortgaged property has been abandoned by the mortgagor and its assigns.

If the court makes a finding of abandonment, Act 376 requires immediate entry of a foreclosure judgment and requires the foreclosing plaintiff, within 12 months of such entry of judgment, to hold a sale of the mortgaged premises and have the sale confirmed or release or satisfy its mortgage lien and vacate the judgment of foreclosure with prejudice. If a foreclosing plaintiff fails to complete either of the above requirements within 12 months of entry of judgment, any party to the foreclosure action or the city, town, village, or county

where the mortgaged property is located may petition the court for an order compelling a sale of the property.

If you have any questions, please contact attorney John R. Schreiber at john.schreiber@wilaw.com or 414-276-5000.