



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Assembly Bill 136	Assembly Substitute Amendment 2
<i>Memo published: September 3, 2009</i>	<i>Contact: Melissa Schmidt, Staff Attorney (266-2298)</i>

Assembly Bill 136 creates an exception to trespass laws for a tax assessor or the tax assessor's staff in order to make an assessment on behalf of the state or a political subdivision.

With three exceptions, *current trespass law* generally states that a person may not enter the land of another without permission of the owner or occupant. The three exceptions to the trespass law include: (1) a person entering land, excluding residences and other buildings, for the purpose of removing a wild animal; (2) a hunter entering land required to be open for hunting; and (3) a person entering or remaining on any exposed shore area of a stream. A person is also prohibited from entering the locked or posted construction site or the locked and enclosed building, dwelling, or room of another without consent of the owner or person in lawful possession of the premises.

Each taxation district (city, village, or town) is required under *current law* to assess and reevaluate property at full value at least once every five years. There is no exception to the prohibitions described above for tax assessors.

Assembly Bill 136

2009 Assembly Bill 136 requires that a city, village, or town must publish a notice, including the approximate dates of the revaluation and describe the authority of an assessor to enter land. The notice must be posted on the municipality's website, or in at least three public places if the municipality does not have a website.

2009 Assembly Bill 136 also provides that the prohibitions described above do not apply to an assessor or assessor's staff entering the land of another or a construction site, other than buildings, if all of the following apply:

1. The assessor or the assessor's staff enters the land in order to make an assessment on behalf of the state or a political subdivision.

2. The assessor or the assessor's staff leaves in a prominent place on the principal building on the land, or on the land if there is not a principal building, a notice informing the owner or occupant that the assessor or the assessor's staff entered the land and giving information on how to contact the assessor.
3. The assessor or the assessor's staff has not personally received a notice from the owner or occupant, either orally or in writing, not to enter or remain on the premises.

In addition, 2009 Assembly Bill 136 provides that the owner or person in lawful possession of the premises and his or her employees are immune from civil liability for the injury or death of an assessor or a member of the staff of an assistant who enters onto a construction site without permission. The exemption from immunity does not apply if the injury or death resulted from reckless, wanton, or intentional misconduct of the owner or person in lawful possession of the premises or his or her employee.

Assembly Substitute Amendment 2

Assembly Substitute Amendment 2 limits the type of property that is included in the exception to trespass laws for an assessor or assessor's staff. Under the amendment, the exception does not apply if an assessor or assessor's staff enters a building, agricultural land or pasture, or livestock confinement area. Also, the amendment adds three additional requirements to the bill that must be met before an assessor or assessor's staff may be exempt from the prohibitions related to trespassing on property or construction sites:

1. The assessor or assessor's staff enters the land on a weekday during daylight hours, or at another time as agreed upon with the land owner.
2. The assessor or assessor's staff spends no more than one hour on the land.
3. The assessor or assessor's staff does not open doors or look into windows of structures on the land.

Assembly Substitute Amendment 2 limits the number of times an assessor may enter a person's real property for purposes of conducting an assessment to once a year. The assessor may enter more often if the property owner consents. The amendment prohibits the assessor from entering the property if the owner has given prior notice that the assessor may not enter without the owner's permission. Also, each taxation district assessor shall create and maintain a database identifying property owners who have given this notice.

Legislative History

On May 5, 2009, Assembly Substitute Amendment 1 (ASA1) was presented to the Assembly Committee on Urban and Local Affairs during a public hearing; not further action was taken on ASA1. On August 25, 2009, the Assembly Committee on Urban and Local Affairs took executive action on Assembly Bill 136. Assembly Substitute Amendment 2 was introduced by a vote of Ayes 7; Noes 0; Absent 1. The bill was recommended for passage, as amended, by a vote of Ayes 7; Noes 0; Absent 1.

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