



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

<p><b>2015 Wisconsin Act 391</b> [2015 Assembly Bill 582]</p>	<p><b>Property Rights, Shoreland Zoning, Contested Case Hearings, Administrative Rule Promulgation Process, and Deference Afforded Agency Legal Interpretations</b></p>
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2015 Wisconsin Act 391 does all of the following:

- Generally prohibits a local governmental unit from requiring a person to take certain actions with respect to real property, or pay a related fee, before purchasing, taking title to, or occupying the property.
- Prohibits a county from enacting a “development moratorium” as defined under current law.
- Prohibits a city, village, town, or county from prohibiting or unreasonably restricting the sale or transfer of title to any interest in real property.
- Requires a political subdivision to provide a method for landowners to receive written notice of potential action by the political subdivision that may affect the allowable use of the landowner’s property.
- Provides that a setback line from the ordinary high-water mark established by a professional land surveyor may be legally relied upon for purposes of development near a water body, in certain circumstances.
- Generally prohibits local regulation of the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a structure wholly or partially located in the shoreland setback area that is legally located there by operation of a variance granted before July 13, 2015.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

- Requires an authority issuing building permits to send a copy of certain building permits related to shoreland projects to the county clerk.
- Allows the use of a flat roof on a boathouse as a deck if specified conditions are met.
- Makes other changes to shoreland zoning laws related to runoff control structures and utility equipment.
- Specifies that conditional use permits issued by a political subdivision need not be consistent with the political subdivision's comprehensive plan.
- Requires a court to resolve any ambiguity in the meaning of a word or phrase in a zoning ordinance or shoreland zoning ordinance in favor of the free use of private property.
- Prohibits a political subdivision from enacting a "down zoning ordinance" unless the ordinance is approved by at least two-thirds of the members of its governing body or is approved by the landowner (a down zoning ordinance decreases allowable development density or reduces permitted uses).
- Requires an economic impact analysis of a proposed administrative rule to include an analysis of the ways in which and the extent to which the proposed rule would place any limitations on the free use of private property, including a discussion of alternatives to the proposed rule that would minimize any such limitations.
- Allows the applicant one substitution of an administrative law judge overseeing a contested case hearing involving a contract, permit, or other approval issued or denied by the Department of Natural Resources or Department of Agriculture, Trade, and Consumer Protection.
- Directs courts to give agency decisions of law restricting a property owner's free use of the owner's property no deference when reviewing such a decision.

*Effective date:* April 28, 2016

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