2015 ASSEMBLY BILL 582

December 7, 2015 – Introduced by Representatives JARCHOW, ALLEN, CRAIG, CZAJA, KNODL, NYGREN, PETERSEN and TAUCHEN, cosponsored by Senators LASEE, LEMAHIEU and NASS. Referred to Committee on Housing and Real Estate.

AN ACT to renumber 706.22 (2) (a) 1., 706.22 (2) (a) 2. and 706.22 (2) (a) 3.; to renumber and amend 70.32 (2) (c) 4., 70.32 (4), 706.22 (2) (b) and 706.22 (3); to amend 59.69 (4) (intro.), 59.69 (4) (j), 59.69 (5) (f), 59.692 (1k) (a) 2., 59.692 (1k) (a) 4., 59.692 (1k) (b), 60.23 (33), 60.61 (2) (a) 6., 60.61 (4) (f), 62.23 (7) (am), 62.23 (7) (d) 4., 66.1001 (4) (f), 66.10015 (title), 66.10015 (1) (a), 66.10015 (1) (b), 66.10015 (1) (d), 66.10015 (2) (b), 66.10015 (2) (d), 236.45 (2) (am) (intro.), 706.22 (title), 706.22 (2) (title) and 706.22 (2) (a) (intro.); and to create 59.692 (1h), 59.692 (1k) (a) 6., 59.692 (1p), 59.692 (7), 66.10015 (1) (as), 66.10015 (1) (bs), 66.10015 (3), 70.32 (2) (c) 4. b., 70.32 (4) (b), 227.445, 700.28, 706.22 (2) (a) 2m., 706.22 (2) (a) 3m., 706.22 (2) (b) 2., 706.22 (3) (b) and 895.463 of the statutes; relating to: government actions affecting rights to real property; the
ASSEMBLY BILL 582

regulation of shoreland zoning; the substitution of hearing examiners in contested cases; and the property tax treatment of unoccupied property.

Analysis by the Legislative Reference Bureau

INTRODUCTION

This bill makes various changes to the regulation of property rights and shoreland zoning and allows for the substitution of hearing examiners in contested case hearings.

PROPERTY RIGHTS

PROCEDURAL PROTECTIONS

Restrictions on sale, purchase, development, or occupancy of real property

This bill does all of the following:

1. 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.
2. Provides that a local governmental unit may require a real property owner to take certain actions with respect to property that are not related to purchasing or occupying the property.
3. Invalidates any ordinance, resolution, or policy currently in effect that is inconsistent with the prohibitions in the bill.
4. Provides that the prohibitions in the bill, and related prohibitions under current law, do not affect the ability of a local governmental unit to enforce any state or federal requirement.
5. Specifically prohibits a county from enacting a development moratorium.
6. Prohibits a city, village, town, or county (political subdivision) from prohibiting or unreasonably restricting a real property owner from selling or transferring title to any interest in the real property.

Individual notice requirements

This bill requires a political subdivision to provide written notice to a landowner that potential action by the political subdivision may affect the allowable use of the landowner’s property. The bill also requires counties and towns to provide such notice if a proposed zoning ordinance will affect the size or density requirements of a landowner’s property. In addition, the bill eliminates a political subdivision’s authority under current law to impose a fee for providing notice.

Vested rights

This bill requires a political subdivision to deny or approve a permit for activity related to a specific and identifiable land development based on regulations and ordinances in effect at the time that the permit application was submitted for approval. Also, if a project requires an approval from a state agency and a political subdivision, the existing requirements applicable at the time of filing the first application, whether filed with the state agency or political subdivision, are
applicable to all subsequent approvals required for the project. The bill also provides that any deadline set by the political subdivision for approving a permit application must be extended so that it coincides with the period in which other related applications are being decided on, including the duration of any proceedings contesting the approval of such applications.

**SHORELAND ZONING**

Under current law, a county must enact a shoreland zoning ordinance for all shorelands in its unincorporated area and the ordinance must meet shoreland zoning standards established by DNR by rule. Current law defines shorelands to be the area within a certain distance from the OHWM of a navigable water. Current law requires a county to establish a shoreland setback area, which is an area within a certain distance of the OHWM in which the construction or placement of structures is limited or prohibited. Under this bill, if a professional land surveyor, in measuring a setback from an OHWM of a navigable water, relies on a map, plat, or survey that incorporates or approximates the OHWM, the setback measured is the setback with respect to a structure constructed on that property if the map, plat, or survey relied upon is prepared by a professional land surveyor and DNR has not identified the OHWM on its Internet site at the time the setback is measured.

Current law generally prohibits the enactment of a county shoreland zoning ordinance that prohibits or regulates the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a nonconforming structure if that activity does not expand the structure’s footprint, and a county shoreland zoning ordinance that requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the vertical expansion of a nonconforming structure. This bill expands these prohibitions to a structure of which any part is legally located in the shoreland setback area only by operation of a variance.

Under the bill, neither DNR nor a county shoreland zoning ordinance may prohibit the owner of a boathouse with a flat roof from using the roof as a deck if the roof has no side walls or screens or from having or installing a railing around the roof that is consistent with Department of Safety and Professional Services standards.

This bill provides that a shoreland zoning standard or ordinance may not prohibit placement of a device or system that retains runoff in a shoreland setback area.

The bill also provides that the construction or maintenance of property or equipment used for the transmission, delivery, or furnishing of natural gas, heat, light, or power and owned by a public utility or cooperative association organized for the purpose of producing or furnishing heat, light, or power to its members only is considered to satisfy shoreland zoning laws and a county’s shoreland zoning ordinance if DNR has issued all required navigable water, water and sewage, and pollution discharge permits or approvals authorizing the construction or maintenance or, if no such permits or approvals are required, if the construction and maintenance is conducted in a manner that employs best management practices to infiltrate or otherwise control storm water runoff from that infrastructure.
ASSEMBLY BILL 582

Resolution of Challenge to Zoning Restrictions

This bill requires a court to resolve any ambiguity in a matter involving a zoning ordinance or shoreland zoning ordinance in favor of the free use of private property.

Supermajority Vote to Down Zone a Property

The bill allows a political subdivision to enact a down zoning ordinance only if the ordinance is approved by at least two-thirds of the members of its governing body. The bill defines a down zoning ordinance as an ordinance that affects an area of land by rezoning it to a usage that is less dense than its previous usage.

Property Tax Treatment of Undeveloped Land

This bill defines, for property tax purposes, “undeveloped land” to include land that is platted and zoned for residential, commercial, or manufacturing use until such time that a permit is issued for constructing a building or other structure on the land. The bill provides that such land be assessed at its unimproved value. Other undeveloped land under current law is assessed at 50 percent of its full value.

Contested Case Hearings

Under this bill, a person who has applied for a contract, permit, or other approval that is the subject of a contested case hearing for which the Division of Hearings and Appeals in the Department of Administration has assigned a hearing examiner may file one written request per hearing for a substitution of a new hearing examiner. If the request is timely and in proper form, the matter must be transferred to a new hearing examiner.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.69 (4) (intro.) of the statutes is amended to read:

59.69 (4) Extent of Power. (intro.) For the purpose of promoting the public health, safety and general welfare the board may by ordinance effective within the areas within such county outside the limits of incorporated villages and cities establish districts of such number, shape and area, and adopt such regulations for each such district as the board considers best suited to carry out the purposes of this section. The board may establish mixed-use districts that contain any combination of uses, such as industrial, commercial, public, or residential uses, in a compact
urban form. The board may not enact a development moratorium, as defined in s. 66.1002 (1) (b), under this section or by acting under ch. 236. The powers granted by this section shall be exercised through an ordinance which may, subject to sub. (4e), determine, establish, regulate and restrict:

SECTION 2. 59.69 (4) (j) of the statutes is amended to read:

59.69 (4) (j) The Subject to s. 66.10015 (3), the density and distribution of population.

SECTION 3. 59.69 (5) (f) of the statutes is amended to read:

59.69 (5) (f) The county zoning agency shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance or amendment that affects the allowable use of the property owned by the person. If the county zoning agency completes a draft of a proposed zoning ordinance under par. (a) or if the agency receives a petition under par. (e) 2., the agency shall send a notice, which contains a copy or summary of the proposed ordinance or petition, to each person on the list whose property, the allowable use or size or density requirements of which, may be affected by the proposed ordinance or amendment. The notice shall be by mail or in any reasonable form that is agreed to by the person and the agency. The agency may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this paragraph may take effect even if the agency fails to send the notice that is required by this paragraph.

SECTION 4. 59.692 (1h) of the statutes is created to read:

59.692 (1h) If a professional land surveyor licensed under ch. 443, in measuring a setback from an ordinary high-water mark of a navigable water as required by an ordinance enacted under this section, relies on a map, plat, or survey
that incorporates or approximates the ordinary high-water mark in accordance with s. 236.025, the setback measured is the setback with respect to a structure constructed on that property if all of the following apply:

(a) The map, plat, or survey is prepared by a professional land surveyor, licensed under ch. 443, after the effective date of this paragraph .... [LRB inserts date]. The same professional land surveyor may prepare the map, plat, or survey and measure the setback.

(b) The department has not identified the ordinary high-water mark on its Internet site as is required under s. 30.102 at the time the setback is measured.

SECTION 5. 59.692 (1k) (a) 2. of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

59.692 (1k) (a) 2. Except as provided in par. (b), requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a nonconforming structure or a structure of which any part is legally located in the shoreland setback area only by operation of a variance if the activity does not expand the footprint of the nonconforming structure.

SECTION 6. 59.692 (1k) (a) 4. of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

59.692 (1k) (a) 4. Requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the vertical expansion of a nonconforming structure or a structure of which any part is legally located in the shoreland setback area only by operation of a variance unless the vertical expansion would extend more than 35 feet above grade level.

SECTION 7. 59.692 (1k) (a) 6. of the statutes is created to read:
59.692 (1k) (a) 6. Prohibits placement in a shoreland setback area of a device or system authorized under par. (a) 5.

**SECTION 8.** 59.692 (1k) (b) of the statutes, as created by 2015 Wisconsin Act 55, is amended to read:

59.692 (1k) (b) A county shoreland zoning ordinance shall allow an activity specified under par. (a) 2. to expand the footprint of a nonconforming structure or a structure of which any part is legally located in the shoreland setback area only by operation of a variance if the expansion is necessary for the structure to comply with applicable state or federal requirements.

**SECTION 9.** 59.692 (1p) of the statutes is created to read:

59.692 (1p) The department may not promulgate a standard and a county may not enact an ordinance under this section that prohibits the owner of a boathouse in the shoreland setback area that has a flat roof from using the roof as a deck if the roof has no side walls or screens or from having or installing a railing around that roof if the railing is consistent with standards promulgated by the department of safety and professional services under ch. 101.

**SECTION 10.** 59.692 (7) of the statutes is created to read:

59.692 (7) (a) In this subsection, “facility” means any property or equipment of a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

(b) The construction and maintenance of a facility is considered to satisfy the requirements of this section and any county ordinance enacted under this section if any of the following applies:
1. The department has issued all required permits or approvals authorizing the
construction or maintenance under ch. 30, 31, 281, or 283.

2. No department permit or approval under subd. 1. is required for the
construction or maintenance and the construction or maintenance is conducted in a
manner that employs best management practices to infiltrate or otherwise control
storm water runoff from the facility.

**SECTION 11.** 60.23 (33) of the statutes is amended to read:

60.23 (33) COMPREHENSIVE PLAN. Adopt or amend a master plan under s. 62.23.

A master plan under this subsection may not prohibit any use specified as a
conditional use in a zoning ordinance enacted by the town.

**SECTION 12.** 60.61 (2) (a) 6. of the statutes is amended to read:

60.61 (2) (a) 6. The Subject to s. 66.10015 (3), the density and distribution of
population.

**SECTION 13.** 60.61 (4) (f) of the statutes is amended to read:

60.61 (4) (f) The town board shall maintain a list of persons who submit a
written request to receive notice of any proposed ordinance or amendment that
affects the allowable use of the property owned by the person. If the town zoning
committee completes a final report on a proposed zoning ordinance and the town
board is prepared to vote on the proposed ordinance under par. (b) or if the town board
is prepared to vote on a proposed amendment under par. (c) 1., the town board shall
send a notice, which contains a copy or summary of the proposed ordinance or
amendment, to each person on the list whose property, the allowable use or size or
density requirements of which, may be affected by the proposed ordinance or
amendment. The notice shall be by mail or in any reasonable form that is agreed to
by the person and the town board. The town board may charge each person on the
list who receives a notice a fee that does not exceed the approximate cost of providing
the notice to the person. An ordinance or amendment that is subject to this
paragraph may take effect even if the town board fails to send the notice that is
required by this paragraph.

SECTION 14. 62.23 (7) (am) of the statutes is amended to read:

62.23 (7) (am) Grant of power. For the purpose of promoting health, safety,
morals or the general welfare of the community, the council may regulate and restrict
by ordinance, subject to par. (hm), the height, number of stories and size of buildings
and other structures, the percentage of lot that may be occupied, the size of yards,
courts and other open spaces, subject to s. 66.10015 (3) the density of population, and
the location and use of buildings, structures and land for trade, industry, mining,
residence or other purposes if there is no discrimination against temporary
structures. This subsection and any ordinance, resolution or regulation enacted or
adopted under this section, shall be liberally construed in favor of the city and as
minimum requirements adopted for the purposes stated. This subsection may not
be deemed a limitation of any power granted elsewhere.

SECTION 15. 62.23 (7) (d) 4. of the statutes is amended to read:

62.23 (7) (d) 4. The city council shall maintain a list of persons who submit a
written request to receive notice of any proposed zoning action that may be taken
under subd. 1. a. or b. or 2. that affects the allowable use of the person’s property.
If the plan commission, the board of public land commissioners, or city plan
committee of the city council completes action on any tentative recommendations
that are noticed under subd. 1. a., proposed changes to a proposed district plan and
regulations that are submitted under subd. 1. b., or proposed amendments that are
submitted under subd. 2., and the city council is prepared to vote on the tentative
Recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, the city council shall send a notice, which contains a copy or summary of the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, to each person on the list whose property, the allowable use of which, may be affected by the tentative recommendations or proposed changes or amendments. The notice shall be by mail or in any reasonable form that is agreed to by the person and the city council. The city council may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this subdivision may take effect even if the city council fails to send the notice that is required by this subdivision.

**Section 16.** 66.1001 (4) (f) of the statutes is amended to read:

66.1001 (4) (f) A political subdivision shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance, described under par. (c), that affects the allowable use of the property owned by the person. At least 30 days before the hearing described in par. (d) is held a political subdivision shall provide written notice, including a copy or summary of the proposed ordinance, to all such persons whose property, the allowable use of which, may be affected by the proposed ordinance. The notice shall be by mail or in any reasonable form that is agreed to by the person and the political subdivision. The political subdivision may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person.

**Section 17.** 66.10015 (title) of the statutes is amended to read:

66.10015 (title) Limitation on development regulation authority and down zoning.
SECTION 18. 66.10015 (1) (a) of the statutes is amended to read:

66.10015 (1) (a) “Approval” means a permit or authorization for building, zoning, driveway, stormwater, or other activity related to land development a project.

SECTION 19. 66.10015 (1) (as) of the statutes is created to read:

66.10015 (1) (as) “Down zoning ordinance” means a zoning ordinance that affects an area of land in one of the following ways:

1. By decreasing the development density of the land to be less dense than was allowed under its previous usage.

2. By reducing the permitted uses of the land to fewer uses than were allowed under its previous usage.

SECTION 20. 66.10015 (1) (b) of the statutes is amended to read:

66.10015 (1) (b) “Existing requirements” means regulations, ordinances, rules, or other properly adopted requirements of a political subdivision that are in effect at the time the application for an approval is submitted to the political subdivision or to an agency, as defined in s. 227.01 (1).

SECTION 21. 66.10015 (1) (bs) of the statutes is created to read:

66.10015 (1) (bs) “Members–elect” means those members of the governing body of a political subdivision, at a particular time, who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation, or removal from office.

SECTION 22. 66.10015 (1) (d) of the statutes is amended to read:

66.10015 (1) (d) “Project” means a specific and identifiable land development, improvement activity, or use that occurs on defined and adjacent parcels of land, which includes lands separated by roads, waterways, and easements within one or more political subdivisions and is specified in one or more applications for approval.
SECTION 23. 66.10015 (2) (b) of the statutes is amended to read:

66.10015 (2) (b) If a project requires more than one approval or approvals from more than one political subdivision or from an agency, as defined in s. 227.01 (1), and a political subdivision and the applicant identifies the full scope of the project at the time of filing the first application for the first an approval required for the project, the existing requirements applicable in each political subdivision at the time of filing the application for the first approval required for the project shall be applicable to all subsequent approvals required for the project, unless the applicant and the political subdivision agree otherwise.

SECTION 24. 66.10015 (2) (d) of the statutes is amended to read:

66.10015 (2) (d) This section does not prohibit a political subdivision from establishing an expiration date on an approval. Any expiration date established by a political subdivision shall be extended by a period equal to the duration of the pendency of any related applications for approval from an agency, as defined in 227.01 (1), or from a political subdivision, including the duration of any proceedings contesting an approval or conditions of an approval.

SECTION 25. 66.10015 (3) of the statutes is created to read:

66.10015 (3) DOWN ZONING. A political subdivision may enact a down zoning ordinance only if the ordinance is approved by at least three-fourths of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.

SECTION 26. 70.32 (2) (c) 4. of the statutes is renumbered 70.32 (2) (c) 4. (intro.) and amended to read:

70.32 (2) (c) 4. (intro.) “Undeveloped land” means bog all of the following:
a. Bog, marsh, lowland brush, uncultivated land zoned as shoreland under s. 59.692 and shown as a wetland on a final map under s. 23.32, or other nonproductive lands not otherwise classified under this subsection.

**SECTION 27.** 70.32 (2) (c) 4. b. of the statutes is created to read:

70.32 (2) (c) 4. b. Land that is platted and zoned for residential, commercial, or manufacturing use until such time that all approvals, including post-construction inspection approvals, required before the initial use of the land for a residential, commercial, or manufacturing use are issued. This subd. 4. b. applies only to land that was in agricultural use for 2 consecutive years prior to being converted to residential, commercial, or manufacturing use.

**SECTION 28.** 70.32 (4) of the statutes is renumbered 70.32 (4) (a) and amended to read:

70.32 (4) (a) Beginning with the assessments as of January 1, 2004, agricultural forest land shall be assessed at 50% of its full value, as determined under sub. (1), and undeveloped land, as defined in sub. (2) (c) 4. a., shall be assessed at 50% of its full value, as determined under sub. (1).

**SECTION 29.** 70.32 (4) (b) of the statutes is created to read:

70.32 (4) (b) Beginning with the assessments as of January 1, 2016, undeveloped land, as defined in sub. (2) (c) 4. b., shall be assessed at its unimproved value until such time that a permit is issued for constructing a building or other structure on the land.

**SECTION 30.** 227.445 of the statutes is created to read:

227.445 Substitution of hearing examiner assigned by division of hearings and appeals. (1) A person who has applied for a contract, permit, or other approval that is the subject of a contested case hearing for which the division
of hearings and appeals has assigned a hearing examiner may file a written request
with the hearing examiner, not later than 10 days after receipt of the notice under
s. 227.44 (1), for a substitution of a new hearing examiner.

(2) No person may file more than one request under sub. (1) for a single hearing.

(3) Upon receipt of a request under sub. (1), the hearing examiner shall have
no further jurisdiction in the matter except to determine if the request was made
timely and in proper form. If the request was made timely and in proper form, the
hearing examiner shall transfer the matter to another hearing examiner and shall
transmit to the new hearing examiner all materials relating to the matter.

(4) If the hearing examiner fails to make a determination as to allowing the
substitution within 7 days, the hearing examiner shall refer the matter to the
administrator of the division of hearings and appeals for the determination and, if
proper, the assignment of a substitute hearing examiner.

SECTION 31. 236.45 (2) (am) (intro.) of the statutes, as affected by 2015
Wisconsin Act 48, is amended to read:

236.45 (2) (am) (intro.) Ordinances under par. (ac) may include provisions
regulating divisions of land into parcels larger than 1 1/2 acres or divisions of land
into less than 5 parcels, and, except as provided in s. 59.69 (4) (intro.) and subject to
s. 66.1002, may prohibit the division of land in areas where such prohibition will
carry out the purposes of this section. Such ordinances shall make applicable to such
divisions all of the provisions of this chapter, or may provide other surveying,
monumenting, mapping and approving requirements for such division. The
governing body of the municipality, town, or county shall require that a plat of such
division be recorded with the register of deeds and kept in a book provided for that
purpose or stored electronically. “COUNTY PLAT,” “MUNICIPAL PLAT,” or “TOWN
PLAT” shall be printed on the map in prominent letters with the location of the land
by government lot, recorded private claim, quarter-quarter section, section,
township, range, and county noted. When so recorded, the lots included in the plat
shall be described by reference to “COUNTY PLAT,” “MUNICIPAL PLAT,” or
“TOWN PLAT,” the name of the plat and the lot and block in the plat, for all purposes,
including those of assessment, taxation, devise, descent, and conveyance as defined
in s. 706.01 (4). Such ordinance, insofar as it may apply to divisions of less than 5
parcels, shall not apply to:

**SECTION 32.** 700.28 of the statutes is created to read:

700.28 Prohibiting unreasonable restrictions on alienation of
property. (1) In this section, “political subdivision” means a city, village, town, or
county.

(2) A political subdivision may not prohibit or unreasonably restrict a real
property owner from alienating any interest in the real property.

**SECTION 33.** 706.22 (title) of the statutes, as created by 2015 Wisconsin Act 55,
is amended to read:

706.22 (title) Prohibition on imposing time-of-sale, purchase, or
occupancy requirements.

**SECTION 34.** 706.22 (2) (title) of the statutes, as created by 2015 Wisconsin Act
55, is amended to read:

706.22 (2) (title) REQUIREMENTS TIED TO SALE, PURCHASE, OR TAKING OCCUPANCY
OF PROPERTY PROHIBITED.

**SECTION 35.** 706.22 (2) (a) (intro.) of the statutes, as created by 2015 Wisconsin
Act 55, is amended to read:
706.22 (2) (a) (intro.) Except as provided in par. (b), no local governmental unit
may by ordinance, resolution, or any other means restrict do any of the following:

1m. Restrict the ability of an owner of real property to sell or otherwise transfer
title to or refinance the property by requiring the owner or an agent of the owner to
take certain actions with respect to the property or pay a related fee, to show
compliance with taking certain actions with respect to the property, or to pay a fee
for failing to take certain actions with respect to the property, at any of the following
times:

SECTION 36. 706.22 (2) (a) 1. of the statutes, as created by 2015 Wisconsin Act
55, is renumbered 706.22 (2) (a) 1m. a.

SECTION 37. 706.22 (2) (a) 2. of the statutes, as created by 2015 Wisconsin Act
55, is renumbered 706.22 (2) (a) 1m. b.

SECTION 38. 706.22 (2) (a) 2m. of the statutes is created to read:

706.22 (2) (a) 2m. Restrict the ability of a person to purchase or take title to real
property by requiring the person or an agent of the person to take certain actions with
respect to the property or pay a related fee, to show compliance with taking certain
actions with respect to the property, or to pay a fee for failing to take certain actions
with respect to the property, at any of the following times:

a. Before the person may complete the purchase of or take title to the property.
b. At the time of completing the purchase of or taking title to the property.
c. Within a certain period of time after completing the purchase of or taking title
to the property.

SECTION 39. 706.22 (2) (a) 3. of the statutes, as created by 2015 Wisconsin Act
55, is renumbered 706.22 (2) (a) 1m. c.

SECTION 40. 706.22 (2) (a) 3m. of the statutes is created to read:
706.22 (2) (a) 3m. Restrict the ability of a purchaser of or transferee of title to residential real property to take occupancy of the property by requiring the purchaser or transferee or an agent of the purchaser or transferee to take certain actions with respect to the property or pay a related fee, to show compliance with taking certain actions with respect to the property, or to pay a fee for failing to take certain actions with respect to the property, at any of the following times:

a. Before the purchaser or transferee may take occupancy of the property.
b. At the time of taking occupancy of the property.
c. Within a certain period of time after taking occupancy of the property.

Section 41. 706.22 (2) (b) of the statutes, as created by 2015 Wisconsin Act 55, is renumbered 706.22 (2) (b) (intro.) and amended to read:

706.22 (2) (b) (intro.) Paragraph (a) does not prohibit do any of the following:

1. Prohibit a local governmental unit from requiring a real property owner or the owner’s agent to take certain actions with respect to the property not in connection with the purchase, sale or refinancing, or taking occupancy of, or the transfer of title to, the property.

Section 42. 706.22 (2) (b) 2. of the statutes is created to read:

706.22 (2) (b) 2. Prohibit a local governmental unit from enforcing, or otherwise affect the responsibility, authority, or ability of a local governmental unit to enforce, a federal or state requirement that does any of the things a local governmental unit is prohibited from doing under par. (a).

Section 43. 706.22 (3) of the statutes, as created by 2015 Wisconsin Act 55, is renumbered 706.22 (3) (a) and amended to read:
706.22 (3) (a) If a local governmental unit has in effect on July 14, 2015, an ordinance, resolution, or policy that is inconsistent with sub. (2) (a) 1m., the ordinance, resolution, or policy does not apply and may not be enforced.

**SECTION 44.** 706.22 (3) (b) of the statutes is created to read:

706.22 (3) (b) If a local governmental unit has in effect on the effective date of this paragraph .... [LRB inserts date], an ordinance, resolution, or policy that is inconsistent with sub. (2) (a) 2m. or 3m., the ordinance, resolution, or policy does not apply and may not be enforced.

**SECTION 45.** 895.463 of the statutes is created to read:

895.463 **Zoning ordinances.** In any matter relating to a zoning ordinance or shoreland zoning ordinance enacted or enforced by a city, village, town, or county, the court shall resolve an ambiguity in the meaning of a zoning word or phrase in favor of the free use of private property.

**SECTION 46. Initial applicability.**

(1) **Actions affecting land use.** The treatment of sections 59.69 (5) (f), 60.61 (4) (f), 62.23 (7) (d) 4., and 66.1001 (4) (f) of the statutes first applies to an action taken by a city, village, town, or county that affects the allowable use of land on the effective date of this subsection.

(2) **Vested rights and agency actions.** The treatment of sections 66.10015 (1) (a), (b), and (d) and (2) (b) and (d) of the statutes first applies to any project for which an application for approval is pending on the effective date of this subsection.

(3) **Down zoning.** The treatment of sections 59.69 (4) (j), 60.61 (2) (a) 6., 62.23 (7) (am), and 66.10015 (title), (1) (as) and (bs), and (3) of the statutes first applies to a down zoning ordinance that is enacted on the effective date of this subsection.

(END)