
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Senate Bill 682

Senate Amendment 2

2021 SENATE BILL 682

2021 Senate Bill 682 creates an exception for certain easements to recording requirements under current law. Generally, under current law, an access easement must be recorded every 40 years to be the basis for a civil action to enforce the easement. The bill removes the re-recording requirement for an easement that is set forth in a recorded instrument that allows a person to travel across another's land to reach a location or for another specified purpose.

Also, the bill first applies retroactively to an action, defense, or counterclaim asserted before the bill's effective date. The bill also first applies retroactively to an easement set forth in a recorded instrument that is entered into before the bill's effective date, unless the instrument contains provisions inconsistent with that treatment.

SENATE AMENDMENT 2

Senate Amendment 2 limits the exception to the re-recording requirement. The exception only applies when at least one of the following conditions are present:

- The easement was recorded on or after January 1, 1960.
- The easement was recorded before January 1, 1960, and a notice, the instrument, or an instrument expressly referring to the easement is recorded on or after January 1, 1960, and before the property is sold or transferred.
- The easement or express reference to the easement was recorded before January 1, 1960, and it is apparent from or can be proved from physical evidence of its use at such time a person acquired the real estate subject to the easement.

Also, the amendment prohibits the bill from applying retroactively when a final judgment has resolved the action, defense, or counterclaim.

BILL HISTORY

Senator Jacque offered Senate Amendment 2 on February 14, 2022. On February 15, 2022, during the Senate floor session, Senate Amendment 1 was withdrawn and returned to the author. That same day, the Senate adopted Senate Amendment 2 and passed the bill, as amended, on voice votes.

PW:ksm