



**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 589**

January 22, 2024 - Offered by Senator TOMCZYK.

- 1 **AN ACT** *to create* 710.30 and 844.01 (5) of the statutes; **relating to:** creating a
2 statutory license to pass a tower crane boom over adjacent real property.

Analysis by the Legislative Reference Bureau

This bill provides that, if a tower crane is used in connection with construction activities on real property, the owner of the real property, the person responsible for operating the tower crane, and the general contractor for the construction activities (licensee) each have a nonexclusive license to pass the tower crane boom over adjacent real property at such an altitude so as to not interfere with the then existing use to which the property, or the space over the property, is put by the owner. Under the bill, the license terminates when the construction activities end or 24 months after the tower crane is installed, whichever occurs first.

Under the bill, at least 30 days before the tower crane is installed, the licensees must provide the owner of each adjacent real property over which the owner crane boom may pass written notice of the installation and the compensation specified in the bill. In addition, the bill requires each licensee to maintain commercial general liability insurance in minimum amounts specified in the bill. The bill provides that

a licensee may not exercise the licensee's rights under the license unless the notice, compensation, and insurance requirements are met.

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

1 **SECTION 1.** 710.30 of the statutes is created to read:

2 **710.30 Construction cranes; license to use adjacent airspace. (1)**

3 **DEFINITION.** In this section, "licensee" means any of the following persons that have
4 a license under sub. (2):

5 (a) An owner of real property.

6 (b) A person responsible for operating a tower crane.

7 (c) A general contractor for construction activities.

8 **(2) LICENSE TO PASS BOOM OVER ADJACENT REAL PROPERTY.** If a tower crane is used
9 in connection with construction activities on real property, the owner of the real
10 property, the person responsible for operating the tower crane, and the general
11 contractor for the construction activities each have a nonexclusive license to pass the
12 tower crane boom over adjacent real property at such an altitude so as to not interfere
13 with the then existing use to which the adjacent real property, or the space over the
14 adjacent real property, is put by the owner.

15 **(3) RESPONSIBILITIES OF LICENSEES.** A licensee may not exercise the licensee's
16 rights under the license described in sub. (2) unless all of the following conditions are
17 met:

18 (a) At least 30 days before the tower crane to which the license applies is
19 installed, a licensee, on behalf of all licensees, provides to the owner of each adjacent
20 real property over which the tower crane boom may pass all of the following:

21 1. Written notice of the installation.

1 2. The compensation specified in sub. (4).

2 (b) Each licensee, before the tower crane to which the license applies is
3 installed, obtains and, for the duration of the construction activities, maintains
4 commercial general liability insurance in an amount not less than \$2,000,000 per
5 occurrence with an annual aggregate limit of not less than \$5,000,000 for
6 compensating 3rd parties for bodily injury and property damages arising from the
7 tower crane.

8 **(4) DETERMINING COMPENSATION.** (a) The licensee specified in sub. (3) (a) shall
9 compensate the owner of each adjacent real property over which the tower crane
10 boom may pass. Compensation may be any of the following:

11 1. An amount equal to one percent of the assessed value of the adjacent real
12 property or \$25,000, whichever is less.

13 2. Other compensation agreed upon by the licensee and the owner of the
14 adjacent real property. Other compensation under this subdivision may include a
15 reciprocal agreement under which the licensee, as defined in sub. (1) (a), grants the
16 same or similar permissions or rights to the owner with respect to the licensee's real
17 property.

18 (b) Notwithstanding par. (a) and sub. (3) (a) 2., the requirement under par. (a)
19 to provide compensation does not apply to adjacent real property that is public
20 property.

21 **(5) DURATION OF LICENSE.** The license under sub. (2) terminates when the
22 construction activities end or 24 months after the tower crane is installed, whichever
23 occurs first.

24 **(6) DISCLOSURE TO PURCHASER.** The owner of adjacent real property that is
25 subject to a license under sub. (2) shall disclose the existence of the license to a

potential purchaser of the real property before entering into an agreement to convey the real property to the potential purchaser.

(7) RECORDING NOTICE. No later than the date on which a tower crane to which a license under sub. (2) applies is installed, a licensee shall record a notice of the existence of the license in the office of the register of deeds of each county in which any adjacent real property over which the tower crane boom may pass is located and of the county in which the real property on which the construction activities occur is located. The licensee shall record a notice of the termination of the license no later than 30 days after the license terminates under sub. (5) in the office of the register of deeds of each county in which the original notice is recorded.

SECTION 2. 844.01 (5) of the statutes is created to read:

844.01 **(5)** The exercise of a licensee’s rights under a license described in s. 710.30 (2) is not actionable under this section.

SECTION 3. Initial applicability.

(1) This act first applies to a license relating to a tower crane for which written notice of installation is given under s. 710.30 (3) (a) on the effective date of this subsection.

(END)