

---

# Wisconsin Legislative Council

## AMENDMENT MEMO

---



**Memo published:** March 11, 2024

**Contact:** Patrick Ward, Staff Attorney

**2023 Senate Bill 870**

**Senate Amendment 1**

### 2023 SENATE BILL 870

2023 Senate Bill 870 makes various changes to ch. 452, Stats., which regulates the practice of real estate, and creates disclosure requirements for real property wholesalers. First, the bill changes the definition of material adverse fact by specifying that it does not include certain information that a real estate licensee is not required to disclose under current law. Also, the bill prohibits the Real Estate Examining Board (the Board) from promulgating rules that require disclosures by a licensee that conflict with or are beyond what is required under s. 452.23, Stats.

Second, the bill makes various changes to when the Department of Safety and Professional Services (DSPS) or the Board must notify real estate firms regarding a licensee associated with the firm. The bill requires DSPS to notify firms if a licensee associated with the firm does not file a renewal of license in time or if the renewal is not granted. It also requires the Board to notify firms in writing regarding all investigations, disciplinary proceedings, actions, and administrative warnings, including the contents of the warning, related to a licensee associated with the firm. The bill states that firms are not responsible for monitoring or ensuring compliance with any license limitations the Board places on a licensee associated with the firm.

Third, under current law, the Board can assess a \$1,000 forfeiture against an individual who violates ss. [452.14 \(3\)](#), [452.17 \(1\)](#) and [\(3\)](#), and [452.25 \(2\) \(a\)](#), Stats. The bill increases the forfeiture to \$5,000 for those violations with certain exceptions.<sup>1</sup>

Fourth, under current law, a licensee must disclose to the parties of a real estate transaction any facts that contradict any information in a report on the physical condition of a property or any other information relating to the real estate transaction created by a qualified third party. The bill narrows this disclosure requirement to instead include the disclosure of all material adverse facts known by the licensee that the party does not know and cannot discover through reasonably vigilant observation. Also, the bill specifically does not require the disclosure of material adverse facts if any of the following applies: (1) the material adverse fact is addressed in the third-party written report; (2) the material adverse fact has otherwise been disclosed in writing; or (3) disclosure of the material adverse fact is prohibited by law.

Lastly, the bill creates immunity from civil liability for a licensee who provides information in good faith attributable to a governmental body and the information is subsequently determined to be inaccurate.

### SENATE AMENDMENT 1

Senate Amendment 1 makes five changes to 2023 Senate Bill 870. First, the amendment removes the amended definition of material adverse fact, the prohibition on the Board promulgating rules requiring

---

<sup>1</sup> The exceptions delineated in the bill are ss. [452.14 \(3\) \(g\)](#), [\(L\)](#), [\(m\)](#), [\(o\)](#), and [\(p\)](#), Stats.

disclosures beyond what is required in statute, and the requirement that DSPS notify firms if a licensee associated with the firm does not file a renewal of license in time or if the renewal is not granted.

Second, the amendment removes the requirement that the Board notify firms of all investigations, disciplinary proceedings, actions, and administrative warnings related to a licensee associated with the firm and the provision that firms are not responsible for monitoring or ensuring license limitation compliance by a licensee associated with the firm. Instead, the amendment requires the Board to notify firms in writing of disciplinary orders issued against a licensee associated with the firm.

Third, the amendment provides that all violations of the statutes identified in the bill, including the exceptions in the bill, are subject to a \$5,000 forfeiture.

Fourth, the amendment removes the changes to required disclosures relating to information that contradicts a written report.

Lastly, the amendment prohibits a licensee who knew information was inaccurate when it was provided from receiving immunity from civil liability for providing information attributable to a governmental body that is later determined to be inaccurate.

## **BILL HISTORY**

Senator Jagler offered Senate Amendment 1 on February 20, 2024. On March 6, 2024, the Senate Committee on Housing, Rural Issues and Forestry recommended adoption of Senate Amendment 1 and passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

For a full history of the bill, visit the Legislature's [bill history page](#).

PW:jal