



Editor: Diane Slomowitz

NEW LAW ALLOWS REMOVAL OF DISCRIMINATORY PROPERTY RESTRICTIONS



By Michael Koutnik

Buyers and sellers of real estate often come across documents in the property's chain of title that restrict the property's use or ownership.

One historical restriction is a prohibition on ownership by a particular race.

While unenforceable, these restrictions are generally offensive to those coming across them.

Last fall, a new Wisconsin law took effect allowing property owners to remove such discriminatory re-

strictions from their property records.

What Are Discriminatory Restrictions?

Discriminatory restrictions are covenants or conditions recorded against property that limit ownership, transfer, rental, or use based on membership in a protected class—often race.

Both federal and Wisconsin laws have long made these restrictions void and unenforceable.

Even so, they still appear in historical property records, such as deeds and plats.

As a result, they also show up on title commitments in

the sale or purchase of property.

The title company, however, generally insures over such restrictions since they are not enforceable.

What Does the New Law Allow?

The law now enables Wisconsin property owners to file a certificate with the register of deeds to formally discharge these restrictions.

How Does the Process Work?

Removing discriminatory restrictions is a relatively straightforward process.

The law is codified at Wis. Stat. § 710.25.

The text of the statute includes a sample certificate that interested owners can use to file with the register of deeds.

Whatever document is filed, the main requirements are:

1. The property owner must file a notarized certificate with the register of deeds in the county where the property is located.

2. The certificate must include:

- A reference to the original document that contains the restriction;
- A legal description of the property;

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MANIAN PRESENTS



FOS shareholder **Jacob Manian** made a presentation to the Waukesha Litigation Bar Association on February 25, 2025.

Jake spoke to the Association regarding potential available defenses in white collar criminal cases.

Jake's FOS practice specializes in complex criminal law, including white collar cases and governmental investigations.

Jake is a former Milwaukee County Assistant District Attorney.

Jake also received the prestigious Martin Hanson Advocates Prize from the Wisconsin Association of Criminal Defense Lawyers, awarded only to attorneys obtaining acquittals in criminal murder trials.

REAL ID IS A GO... ARE YOU READY?

After five years of delays, REAL ID compliance requirements begin May 7, 2025.

Created by the Department of Homeland Security ("DHS"), REAL ID requires the use of compliant driver's licenses or identification cards ("ID") for official purposes.

These include accessing federal buildings and domestic flights.

Those without such appropriate REAL ID documents

will be denied access unless they have alternative approved identification.

One alternative is a valid passport.

Individuals without proper documentation, if not denied access, may face processing delays.

For example, domestic fliers without sufficient identification will need to undergo an identity verification process before being allowed to enter the security checkpoint.

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DON'T GET BIT BY WISCONSIN'S DECEPTIVE TRADE PRACTICES ACT



By Lauren Maddente

Advertising, whether through the internet or store flyers, is a mainstay of business success.

After all, it's hard to sell products if potential customers don't know your company exists.

How far, however, can a company go in extolling the virtues of its products to the public?

One answer lies in Wis. Stat. § 100.18, Wisconsin's Deceptive Trade Practices Act (the "Law").

The Law is also known as Wisconsin's Fraudulent Representation Law.

The Law generally prohibits advertising or sales claims made to the public that are "untrue, deceptive or misleading." It is sweeping in its breadth and potential penalties.

The statute, for example, applies to representations made in everything from the sale of jewelry to motor fuel, to the description of property, to other goods or services.

The Law, which applies to most businesses in Wisconsin, is intended to ensure that potential customers receive accurate information regarding a product or service.

Businesses, though well-intentioned, can run afoul of the Law if they do not carefully review their advertisements, other representations, and promotions.

For example, check your company's website.

Does it contain statements about the qualities of your product that go beyond basic facts?

Could they possibly be construed as "deceptive" or "misleading?"

Puffery — a description that an ordinary person would not take as factual (e.g., "the best of the best") — is allowed.

But when does a representation cross the line from puffery to public deception?

And who is a member of the "public?"

One would suspect that the "public" would at least consist of those who have seen an advertisement.

Surprisingly, the courts have held that even one person can be the "public."

This means that a poorly worded sales offer, bid, or specific offering could come under the Law, with the parties viewed to have a "special relationship."

The public's reliance on a representation also comes into play in determining whether a representation causes pecuniary loss.

A representation, after all, cannot cause such loss if one cannot reasonably rely on it.

While the Law is enforced by the state Department of Agriculture, Trade and Consumer Protection, it authorizes private claims by the public, including consumers and

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They may be subject to additional screenings, resulting in unexpected delays.

TSA's enforcement of the REAL ID requirements is currently being phased in under a January, 2025, final rule of the Transportation Security Administration ("TSA").

The phase-in, however, does not alter the compliance deadline.

As a result, if you try to access a federal venue without compliant documents on or after May 7, 2025 and the venue is enforcing REAL ID, you may be denied access or subject to additional screenings.

For this reason, TSA is urging travelers to obtain REAL ID compliant identification before May 7, 2025 to avoid delays accessing airports, federal agencies, and other federal venues.

A list of acceptable documents required to obtain a compliant license or ID is available at [Wisconsin DMV Official Government Site - Real ID](https://wisconsin.gov/DMV/Official-Government-Site-Real-ID) (wisconsin.gov).

For additional information, see <https://foslaw.com/wp-content/uploads/2020/06/Revised-Winter-2019-Newsletter-11.22.2019.pdf>; <https://foslaw.com/wp-content/uploads/2025/02/Winter-2024-Client-Newsletter.pdf>

OVERTIME RULES VACATED

FOS's summer 2024 newsletter described new regulations which increased the minimum salary threshold for overtime pay for salaried workers. <https://foslaw.com/wp-content/uploads/2024/08/Summer-2024-Newsletter.pdf> Those regulations would have raised the minimum salary threshold for overtime from \$684 to \$884 per week, allowing nonexempt individuals earning a salary of up to approximately \$44,000 to be eligible for overtime compensation.

Additionally, effective

January 1, 2025, the minimum salary threshold would have again increased, this time to \$1,128 per week or approximately \$58,656 a year.

However, on November 15, 2024, a federal court in Texas struck down the new rules.

The court held that the Department of Labor went beyond its authority in issuing the regulations.

The rules therefore are, for

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NEW ADMINISTRATION, SAME TAX LAWS?



By Olivia Hansen

With the start of President Trump’s second term, much focus is on what new policies will be enacted in the first 100 days, first year, and throughout the next four years.

One area that may not change, but rather could be granted extended life, is the tax law enacted under the Tax Cuts and Jobs Act (“TCJA”).

The TCJA is set to sunset at the close of 2025.

The new Congress, however, is working to potentially extend and even make perma-

nent many if not all of these provisions.

As this newsletter goes to print, for example, the Senate and House are working on dueling budget plans.

The administration is looking to extend the Qualified Business Income (“QBI”) deduction, which currently allows for a deduction of 20% for certain QBI.

Also on deck for extension are the individual income tax rates (10%, 12%, 22%, 24%, 32%, 35%, and 37%) which, if allowed to expire, would revert to pre-TCJA rates.

If the rates were to revert back to the pre-TCJA levels, individuals would be faced with higher individual income rates (10%, 15%, 25%, 28%, 33%, 35%, and

39.6%).

In addition, Congress will likely attempt to reinstate the 100% bonus depreciation under the TCJA.

When the TCJA was first enacted, businesses were able to deduct 100% of applicable property placed into service after September 27, 2017.

Before that, the deduction limit was 50%.

The TCJA, however, decreased the bonus percentage deduction by 20% each year, with the 2025 deduction capped at 40%.

Proposals would bring back the 100% deduction without future decreases.

The TCJA also greatly im-

pacted the lifetime gift and estate tax exemption.

The current exemption is \$13.99 million.

Barring legislative action this year, the exemption would drop to roughly \$7 million.

With so many proposed extensions and changes to the tax laws, it is important to monitor the continuing tax landscape.

If you have any questions about the likelihood of these changes and how they may impact you, contact your FOS attorney.

QUESTIONS?

CALL US
414-273-3939

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- The owner’s signature; and
- A statement that the discriminatory restriction is discharged.

Owners filing such documents should retain a file-stamped copy with their other records regarding the property.

Property owners may or may not decide to remove such discriminatory restrictions.

Nonetheless, a new process is available for owners to update their records and eliminate outdated, unlawful restrictions.

If you have any questions regarding the new law or process, contact FOS.

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commercial entities.

To recover, a claimant must prove that (1) a defendant made a representation to the public with the intent to induce an obligation; (2) the representation was untrue, deceptive, or misleading; and (3) the representation caused the plaintiff pecuniary loss.

Penalties for violating the Law include fines up to \$10,000 per violation, double damages, costs, and attorneys’ fees.

Your FOS attorney can help ensure your company’s practices comply with the Law and do not expose it to unnecessary potential liability.

Overtime, cont. from pg. 2

now, not in effect.

As a result, the previous salary threshold for overtime pay, at the prior level of \$684 a week or approximately \$34,000 a year, applies.

The United States has appealed this decision.

Given the change in administrations, however, it is possible that this appeal will be withdrawn.

Alternatively, the federal government could continue the appeal, rescind the challenged rules, or issue a new rule.

Only time will tell.

NON-COMPETES

As this newsletter goes to print, the Federal Trade Commission’s rule (Rule) banning most noncompete agreements remains in limbo.

Multiple lawsuits have challenged the Rule, some have held it unconstitutional, and two cases have advanced to the appellate courts.

As the challenges progress, a nationwide ban on its enforcement remains.

State laws governing covenants not to compete remain effective, including Wis. Stat. § 103.465.

FOS will continue to monitor the Rule’s status.



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EMPLOYERS... KNOW YOUR RIGHTS IF ICE COMES TO VISIT



By Jacob Manian

As readers are aware, the Trump Administration is intensifying its enforcement of the federal immigration laws.

These efforts are currently focusing on those commonly known as "illegal immigrants."

A more accurate technical legal name for these individuals is "undocumented non-immigrants (individuals who are not citizens and do not have green cards or other formal authorization to be in the United States)."

The administration's focus is likely to involve workplace audits and raids carried out throughout the country by U.S. Immigration and Customs Enforcement (ICE).

Certain industries that employ non-immigrant workers, such as hospitality, construction, agriculture, healthcare, and transportation, may face particular scrutiny.

What should employers do if ICE, or another federal law enforcement agency, visits?

First, your business should have an established, trained point person assigned to meet ICE or another federal

agency showing up at your workplace.

The point person should first attempt to identify the agency and obtain a copy of any subpoena or warrant that the agents may be there to serve or execute.

The point person should immediately contact counsel to become involved and act on the company's behalf.

As events unfold, employees should be careful not to grant access to employee-only areas.

However, if agents or other governmental representatives proceed to enter the premises, employees should not attempt to physically obstruct

them.

Employees should also be careful when agents or officers "ask" for consent to enter this or a similar premises.

Agents and officers sometimes use persuasive or even intimidating communications to obtain "consent" to enter or search a premises.

As this description shows, training and clear protocols about how to handle these encounters are crucial.

Make sure your company is not blindsided by that unannounced ICE visit.

Companies should consider proactively preparing for a potential visit by ICE or another federal agency.