

February 9, 2022



REALTOR® & GOVERNMENT DAY

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WRA

EVENT AGENDA

WRA

Event details

12:30 - 1:00 p.m. Registration

1:00 - 1:15 p.m. Welcome and overview

1:15 - 1:45 p.m. Address by Gov. Evers

1:45 - 2:45 p.m. Issue briefing

2:45 - 3:00 p.m. Move to the Capitol

3:00 - 4:30 p.m. Capitol visits

4:30 - 5:30 p.m. Reception back at the Madison Concourse



Protect the freedom to contract

Support AB 707/SB 682 to preserve private easements

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REALTORS® POLITICAL ACTION COMMITTEE

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WORKFORCE HOUSING

MULTIPLE BILLS

REALTOR® MESSAGE

The WRA supports increasing the supply of workforce housing in Wisconsin through a variety of initiatives that would, among other things: (1) reduce the local regulatory costs associated with building new housing, (2) update older housing stock, and (3) provide additional financial tools to build workforce housing.

STATUS

The legislature is currently considering eight bills aimed at increasing the supply of workforce housing in Wisconsin. Each of the bills has passed the Assembly with strong bipartisan support and is awaiting action by Senate committees.

BACKGROUND

Wisconsin employers are having difficulty recruiting workers to fill thousands of job openings due to a historic shortage of affordable housing options for workers. With statewide housing inventory levels at historic lows, median home prices continuing to rise, and apartment rent increases outpacing wage growth, Wisconsin has a major workforce housing shortage.

A recent study titled, "Falling Behind: Addressing Wisconsin's Workforce Housing Shortage," authored by UW-Madison Professor Kurt Paulsen, indicates that Wisconsin's workforce housing shortage makes it harder for businesses to recruit or retain workers, harming Wisconsin's economic competitiveness. Real estate is an economic development driver, and housing that working families can afford must be available to attract and to retain employees and employers to Wisconsin communities.

LEGISLATIVE INITIATIVES

The Wisconsin Legislature is currently considering legislation aimed at increasing the supply of workforce housing:

1. Workforce Housing Tax Credit Program

AB 156/SB 172

Bill authors: Rep. Rob Summerfield and Sen. Kathy Bernier
Creates a 4% state tax credit for the development of new rental housing for individuals within 61% to 100% of the area median income. A 10-year restrictive covenant would be recorded on the rental housing units to ensure they remain affordable.

2. Shovel-ready Workforce Housing Sites

AB 603/SB 629

Bill authors: Rep. Alex Dallman and Sen. Dan Feyen
Requires the Wisconsin Economic Development Corporation (WEDC) to identify and promote residential real estate development sites that can be developed in an immediate and cost-effective manner.

3. Local ARPA Funds to Invest in Workforce Housing

AB 605

Bill author: Rep. Rob Brooks
Directs local governments with a population of 50,000 or more to use American Rescue Plan Act of 2021 (ARPA) money in a variety of ways to create more workforce housing.

4. Sales Tax Exemption for Construction Materials

AB 606/SB 631

Bill authors: Rep. Treig Pronschinske and Sen. Dan Feyen
Exempts from the sales and use tax all building materials for the development of workforce housing. The exemption sunsets after five years.

5. WHEDA Workforce Housing Rehabilitation Loans

AB 607/SB 877

Bill authors: Rep. William Penterman and Sen. Roger Roth
Authorizes the Wisconsin Housing and Economic Development Authority (WHEDA) to make low-interest or no-interest rehabilitation loans to update Wisconsin's older housing stock.

6. Local Regulatory Reform

AB 608/SB 840

Bill authors: Rep. Rob Brooks and Sen. Rob Stafsholt
Reduces the local regulatory costs related to building workforce housing by (a) requiring every municipality to have at least one area zoned for multifamily, (b) making residential use a permitted use in all areas zoned commercial, and (c) requiring a 90-day approval process for all workforce housing projects that are consistent with local zoning or comprehensive plans.

7. Local Housing Investment Fund

AB 609

Bill author: Rep. David Armstrong
Provides a new local financing tool, funded through the collection of tax revenues on valuation increases, to assist in the development of new and the rehabilitation of existing workforce housing.

8. Prohibiting Speculative Property Tax Assessments

AB 610/SB 630

Bill authors: Rep. Rob Brooks and Sen. Dan Feyen
Creates more accurate, fair and uniform property tax assessments of real property by clarifying that (a) the statutes control when there is a conflict with the Wisconsin Property Tax Assessment Manual, and (b) listing or asking prices should not be relied upon in determining fair market value.

WORKFORCE HOUSING

MULTIPLE BILLS

TALKING POINTS

More workforce housing is necessary to attract workers to Wisconsin

With statewide housing inventory levels at historic lows and median home prices continuing to rise, Wisconsin has a major workforce housing shortage. Employers are often unable to successfully recruit new employees to fill job openings because affordable and attractive housing options are unavailable. Without an increase in workforce housing, Wisconsin employers will be unable to compete in the global marketplace, which will negatively impact our state and local economies.

Wisconsin's economy will benefit from new workforce housing

The creation of new workforce housing will help create jobs, increase state and local revenues, and create a ripple effect on Wisconsin's overall economy. Consider the following:

- New residential construction alone employs 126,000 people and generates \$5.6 billion in earnings in Wisconsin.
- Every new single-family home creates three jobs and generates \$89,000 in federal, state and local revenues.
- With every home purchased, owners spend approximately \$5,171 on average on furniture, appliances, lawn care equipment or services, and other home-related purchases.

Regulatory reform is necessary to lower the costs to develop new housing

According to reports produced by both the Trump and Obama administrations, outdated local land-use regulations, such as large minimum lot sizes, prohibitions on multifamily housing and delayed approval processes, drive up the cost of housing. Such regulations add more than 25% to the cost of a new home and as much as 42% to the cost of new multifamily construction.

Learn more

ACTION.WRA.ORG/GROWING-OUR-ECONOMY-WITH-MORE-WORKFORCE-HOUSING



HOMEOWNERS ASSOCIATIONS

AB 917/SB 865

BILL AUTHORS: REP. ROB BROOKS AND SEN. JOAN BALLWEG

REALTOR® MESSAGE

The WRA supports creating a simple statutory structure for homeowners associations (HOAs) that allow the residents living in or purchasing properties within an HOA to have access to the rules and regulations impacting the property.

STATUS

The legislature is currently considering the bill, and the bill is awaiting action by the Assembly and Senate committees.

BACKGROUND

An HOA is a subdivision organization that creates and enforces rules relating to properties within its control. Generally, when a property is purchased within an HOA, the property owner and the property automatically become a member of the HOA and are often required to regularly pay fees.

Generally, Wisconsin law does not regulate HOAs. Contrary to popular belief, HOA documents are not required to meet the same deadlines and obligations established by Wisconsin condominium law.

HOAs can regulate the use and have a great impact on the property owner's right. Therefore, a buyer must understand any obligations, limitations, or fees when considering purchasing a property in an HOA. The rules and regulations of HOAs are often included in covenants, conditions and restrictions (CC&Rs), subdivision covenants, or deed restrictions.

HOA rules and regulations should be readily available to those living in, or purchasing, a property within an HOA.

TALKING POINTS

This legislation does not regulate HOAs or limit the assessments charged

AB 917/SB 865 does not restrict how HOAs can regulate property or limit the ability or amount of any special assessment or periodic association fees an HOA may charge.

This bill does two things

1. Makes regulations more transparent to property owners and prospective buyers by requiring HOAs to:

- Record covenants and restrictions with the county register of deeds.
- Post covenants and restrictions if an HOA has a website.
- Provide a 48-hour notice to HOA members of upcoming meetings and decisions made by the board.

2. Creates a reasonable statutory framework for HOAs for consumers to gain information.

- Registration of HOAs with the Department of Financial Institutions (DFI).
- Searchable DFI database, with information such as the name of the association, the location, a contact person and the HOA's internet site and that information is searchable.
- Registration of HOAs with the Department of Financial Institutions (DFI).
- Cap on document fees. Creates a \$25 fee cap charged by the DFI to file registration forms and \$50 by the HOA to deliver covenants and restrictions to the property owner, if not posted on the website.
- If the HOA fails to comply with the law, any one-time fees resulting from the transfer of the property or any late fees are unenforceable.

Learn more

ACTION.WRA.ORG/HOMEOWNERS-ASSOCIATIONS

40-YEAR EXPIRATION OF WISCONSIN ACCESS EASEMENTS

AB 707/SB 682

BILL AUTHORS: REP. DAVE MURPHY AND SEN. ANDRE JACQUE

WRA

REALTOR® MESSAGE

The WRA supports AB 707/SB 682, legislation eliminating a statutory expiration of access easements.

STATUS

The legislature is currently considering the bill, and the bill has passed the Assembly with strong bipartisan support and is awaiting action by the Senate committee.

BACKGROUND

Under current Wisconsin law, access easements automatically expire after 40 years unless renewed by re-recording the easements. Because most property owners are unaware of the re-recording requirements, these access easements will automatically expire, causing tremendous confusion for property owners and negatively impacting property values.

An easement is an interest in real property that gives someone the right to use another person's property; a right that is not automatic and, under current Wisconsin law, must be established in writing and recorded to be preserved. Easements are executed on commercial, residential and agricultural parcels as well as landlocked parcels, parking lots, hunting land and waterfront properties for a variety of reasons.

Generally, under the law, if an access easement is not re-recorded at the register of deeds office within a certain time frame, the interest is extinguished and unenforceable, even if the original easement provides it goes on in perpetuity. It is important to note that certain interests are not subject to the re-recording, such as interests of utilities and railroads, interests of political subdivisions and conservation easements.

TALKING POINTS

Severe consequences for real estate transactions

- Property owners are generally unaware that easements have expired.
- For property owners, sellers and buyers, it is a shock for an owner to discover the easement providing access to the property has expired just as the property is going to be sold to a purchaser.
- When the parties learn the 40-year expiration on the easement has occurred and the easement no longer exists, the surprised burdened property owner often asks for a lump sum of money, even though they believed the easement went on in perpetuity.

Parties should have the freedom to contract

- It is against public policy to have a law automatically terminate a previously negotiated contract between two parties simply because the agreement was not re-recorded after 40 years.
- As with other contracts, state law should not override agreements between two private parties.
- The presumption should be if the parties did not include a termination time frame in the access easement, then the easement continues in perpetuity.

AB 707 to be amended to provide

- All easements recorded after January 1, 1960, go on in perpetuity.
- Access easements recorded before January 1, 1960, can be shown to exist by (1) open and notorious use, or (2) by re-recording the instrument.

Learn more

ACTION.WRA.ORG/ADDRESSING-THE-40-YEAR-EXPIRATION



FORECLOSURE EQUITY THEFT

AB 889/SB 829

BILL AUTHORS: REP. ZIMMERMAN AND SEN. FELZKOWSKI

REALTOR® MESSAGE

The WRA supports AB 889/SB 829, legislation requiring counties to pay any net proceeds in a property tax foreclosure sale to the former owner of the property.

STATUS

The legislature is currently considering the bill, and the bill is awaiting action by the Assembly and Senate committees.

BACKGROUND

Under Wisconsin's property tax enforcement law, if a property owner is unable to pay their property taxes, counties are authorized to seize the property and sell it to pay off the property taxes owed. See Wis. Stat. § 75.63. However, after paying off the property taxes owed as well as all other penalties, interest and selling costs, the county may keep any net proceeds unless the property is the former owner's homestead. See Wis. Stat. § 75.36(4).

For all other types of property — such as commercial, farms or vacant land — the county gets a windfall and is allowed to keep the owner's remaining equity in the property ... regardless of how small the tax delinquency. Such action by the county is referred to as "foreclosure equity theft." While the exact number of Wisconsin foreclosure equity theft cases is unknown, the financial impacts on property owners can be significant and unjust.

For example, in *Ritter v. Ross*, 207 Wis. 2d 476 (Ct. App. 1996), Mr. and Mrs. Ritter lost 38 acres of vacant land in Rock County with a fair market value of \$37,920 because they owed \$84.43 in back taxes. The county seized the property, sold it at auction for \$17,345 and kept all the profits: a \$17,260.07 windfall for the county.

TALKING POINTS

Foreclosure equity theft is an unconstitutional taking

Under the Fifth Amendment of the U.S. Constitution, the government is prohibited from taking property for a public purpose without just compensation. This protection applies to all property, whether real or personal. Keeping the remaining equity in a person's property after a foreclosure sale is exactly the type of government "taking" that the constitution was created to prevent.

Foreclosure equity theft magnifies financial hardships

Generally, property owners fail to pay their property taxes and go into foreclosure due to some significant event in their lives, such as a major medical issue, divorce, job loss or death in the family. Keeping the equity in an owner's property makes such financial hardships even worse and could permanently prevent the owner from making a financial recovery.

Foreclosure equity theft creates an unjust financial windfall for counties

Under current law, counties can deduct from the foreclosure sale proceeds all past due taxes, penalties, interest and all costs incurred by the county related to the foreclosure and subsequent sale. See Wis. Stat. § 75.36(3)(a). Allowing counties to profit by keeping any remaining net proceeds in the property is a financial windfall for the county at the expense of the affected property owner.

Wisconsin is one of only 12 states to allow foreclosure equity theft

The vast majority of states prohibit the government from engaging in foreclosure equity theft. According to the Pacific Legal Foundation, Wisconsin is currently one of only 12 states that allow the government to keep any net proceeds after the foreclosure sale. The other states include Alabama, Arizona, Colorado, Illinois, Maine, Massachusetts, Minnesota, Nebraska, New Jersey, New York and Oregon.

See more at pacificlegal.org/home-equity-theft.

Learn more

ACTION.WRA.ORG/EQUITY-THEFT-REAL-ESTATE-FORECLOSURE-SALES



THANK YOU!

To all our attendees, our sponsors and our legislators



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