

**REALTOR®  
& GOVERNMENT DAY  
Event RGD<sub>20</sub>**

**PROGRAM**

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WRA

*Welcome!*

**REALTOR<sup>®</sup>**  
**& GOVERNMENT DAY**  
**Event** **RGD**<sub>20</sub>

*advancing toward a*  
**HEALTHIER REAL ESTATE MARKET**

FEBRUARY 5, 2020 | MADISON CONCOURSE HOTEL



# REALTOR® & GOVERNMENT DAY Event RGD<sub>20</sub>

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## WRA AGENDA

12:30 – 1:00 p.m.	Registration
1:00 – 1:15 p.m.	Welcome and overview
1:15 – 1:45 p.m.	Address, Gov. Tony 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, Madison Concourse

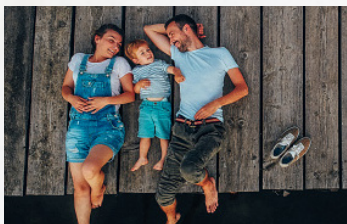
Gov.  
**Tony Evers**  
1:15 p.m.



State  
**Capitol Visits**  
3:00 p.m.



## 2020 Priority Issues



**Restore the Right to Place a Pier  
on Flowages [AB 551/SB 501]**

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**Update Disclosure Reports  
[AB 596/SB 549]**

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**Improve Home Inspection Reports  
[AB 655/SB 599]**

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**Prohibit Chasing Sales  
[AB 691/SB 624]**

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**Increase Workforce Housing Supply  
[AB 544/SB 484 and additional initiatives]**

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Affected property owners have invested thousands of dollars on piers, boats and other recreational vehicles with the expectation these could be used to directly access the water from the property.



# Restore the Right to Place a Pier on Flowages

[AB 551/SB 501]



## BILL AUTHORS



Rep.  
**ROB STAFSHOLT**  
Assembly District 29



Sen.  
**PATRICK TESTIN**  
Senate District 24



## STATUS

- Pending action by the Assembly Housing and Real Estate Committee.
- Pending action by the Senate Natural Resources and Energy Committee.



## REALTOR® MESSAGE



The WRA supports AB 551/SB 501, legislation seeking to clarify that all waterfront property owners, even those with land abutting flowages and artificial waterways, have the right to place a pier subject to the regulations in Chapter 30 of the Wisconsin Statutes.

### BACKGROUND

For over 140 years, Wisconsin law has recognized that owners of waterfront property have riparian rights, including the right to place a pier. See *Cohn v. Wausau Boom Co.*, 47 Wis. 314, 322, 2 N.W. 546 (1879). In 1959, the Wisconsin Legislature codified this right of waterfront property owners to place a pier. See Wis. Stat. § 30.13(1). In recent years, the legislature has further protected this right from permit requirements and enforcement actions if certain conditions are met. See Wis. Stat. §§ 30.12(1g)(f) and 30.12(1k).

In 2018, the Wisconsin Supreme Court, in *Movrich v. Lobermeier*, 2018 WI 9, 379 Wis. 2d 269, 905 N.W.2d 807, declared that some waterfront property owners do not have a right to place a pier. Specifically, the court held that owners of waterfront property along flowages and artificial waterways do not have the right to place a pier. Because the lakebeds of flowages and artificial waterways are privately owned, the court reasoned that the owners of the lakebeds can prohibit any pier from touching the bed or floating above it.

### TALKING POINTS

**Potential impacts of case:** The *Movrich* case will likely have far-reaching impacts, possibly impacting a large number of waterfront property owners and businesses. Consider the following:

#### 1. Thousands of waterfront property owners are impacted.

The court's ruling applies to all flowages and potentially other "man-made" bodies of water in Wisconsin.

- According to the Wisconsin DNR, Wisconsin has approximately 260 flowages.
- Thousands of lakes in Wisconsin are considered "man-made" resulting from either the artificial raising of water levels or the damming of rivers and streams,

including large bodies of water, such as Lake Koshkonong, Lake Wisconsin, and the various "chain of lakes" in areas like Minocqua and Eagle River.

#### 2. All piers are prohibited, including floating piers.

The court's ruling applies broadly to:

- All piers, even floating piers.
- Existing piers that have been placed for decades.
- Waterfront property that has been assessed for property tax purposes as having pier rights for years.

Because of the court's ruling, affected property owners may now be forced to either remove their pier or pay several hundred dollars for a dock license fee to keep their existing pier.

#### 3. Affected waterfront property owners have made significant investments in piers and watercraft.

- Affected property owners have invested thousands of dollars on piers, boats and other recreational vehicles with the expectation these could be used to directly access the water from the property.
- Waterfront businesses such as restaurants, marinas and gas stations rely exclusively on customers who access their businesses by boat.
- These businesses have invested thousands of dollars on piers, decks, retaining walls and other improvements to their property to attract these boating customers to their businesses.

#### 4. This legislation would restore the affected waterfront property owners' rights that existed prior to the *Movrich* case.

**The WRA respectfully requests you support AB 551/SB 501.**





The WRA supports AB 596/SB 549, legislation that modifies the seller disclosure reports.



**RGD<sub>20</sub>**  
**Update Disclosure Reports**  
 [AB 596/SB 549]



**BILL AUTHORS**



Rep.  
**CODY HORLACHER**  
 Assembly District 33



Sen.  
**LUTHER OLSEN**  
 Senate District 14



**STATUS**

- Awaiting scheduling for Assembly floor vote.
- Pending action by the Senate Utilities and Housing Committee.



## REALTOR® MESSAGE

The WRA supports AB 596/SB 549, legislation that modifies the seller disclosure reports.



## BACKGROUND

Last session, the legislature passed 2017 Wisconsin Act 338, which in part provided a more user-friendly report for a seller to complete when selling residential or vacant land. Since the implementation on July 1, 2018, of the revised Real Estate Condition Report and Vacant Land Disclosure Report, the WRA has discovered the need to update Wis. Stat. Chap. 709 relating to seller disclosure reports.

## TALKING POINTS

This bill makes four modifications:

### 1. Addresses an inconsistency in the statute when a buyer exercises the right to rescind.

- Two different sections of Wisconsin Stat. Chap. 709 provide a buyer a two-business-day right to rescind the offer or option in writing, but these sections provide inconsistent results regarding the return of the buyer's earnest money when the buyer exercises those rights. See Wis. Stat. § 709.05 and Wis. Stat. § 709.02(1), respectively.
- As a result, the two sections of the statute are inconsistent, creating confusion for the parties.
- AB 596 amends the statute to create consistency.

### 2. Clarifies a common practice issue in which a seller's actions are unclear.

- Some sellers provide an "X" through the entire report rather than answering the specific questions.
- This "X" creates ambiguity as to whether the seller has provided the buyer a completed report.
- AB 596 clarifies that if the seller provides a report with strikethroughs or unanswered questions, the form is incomplete and the buyer then has certain statutory direction in Wis. Stat. § 709.05(1) to rescission rights.

### 3. Includes a technical modification to reduce confusion about a question.

- When sellers complete the current report, they are unsure about whether they are required to disclose public rights of way.
- This question in the report was intended to ask the seller about private rights of way impacting the land.
- AB 596 modifies the language to specify the disclosure applies to private, and not public, rights of way.

### 4. Adds a new disclosure to help in transactional transparency relating to a tax issue.

- Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), federal law imposes a withholding tax on foreign sellers when they sell real property, and requires buyers involved in such transactions to potentially be responsible for the tax.
- FIRPTA authorized the U.S. to tax "foreign people," as defined in FIRPTA, selling U.S. real property interests.
- People buying U.S. real estate interests from foreign sellers are required to withhold 15 percent of the amount realized to ensure Internal Revenue Service (IRS) taxation of the gains realized on the sale.
- Under FIRPTA, the buyer is the withholding agent. The buyer must find out if the seller is a foreign person.
- If the seller is a foreign person and the buyer fails to withhold, the buyer may be held liable for the tax.
- Although these transactions are infrequent due to the significant consequences for buyers failing to comply with FIRPTA, the newly revised WB-11 Residential Offer to Purchase required for use by Wisconsin real estate licensees as of January 1, 2020, includes a FIRPTA provision on lines 516-536.
- AB 596 adds FIRPTA as a disclosure to the reports to help in determining if the seller is a foreign person for tax purposes.

**The WRA respectfully requests you support AB 596/SB 549.**



One of the biggest disputes between buyers and sellers in a real estate transaction is whether a condition of the property constitutes a “defect.”



# Improve Home Inspection Reports

[AB 655/ SB 599]



## BILL AUTHORS



Rep.  
**ROB BROOKS**  
Assembly District 60



Sen.  
**KATHY BERNIER**  
Senate District 23



## STATUS

- Pending action by the Assembly on Regulatory Licensing Committee.
- Pending hearing by the Senate Utilities and Housing Committee.



## REALTOR® MESSAGE

The WRA supports AB 655/SB 599, legislation requiring a home inspector to label in the inspection report items identified as a “defect” during the home inspection and to provide a summary page as part of the report.



## BACKGROUND

One of the biggest disputes between buyers and sellers in a real estate transaction is whether a condition of the property constitutes a “defect.” The major reason for this disagreement is because home inspectors are not required to use the word “defect” in their report, even though they are required to inspect the property for conditions that are defined in the home inspector statute as “defects.”

## TALKING POINTS

**1. Buyers hire home inspectors to help them understand the condition of the home they are purchasing; after the inspection, the home inspector must provide a written report.**

- REALTORS® do not have the same expertise as home inspectors to determine the condition of a property.
- For this reason, and many others, a great deal of importance is placed on the home inspector’s report.

**2. This legislation does not alter the requirements of what a home inspector must do regarding the inspection.**

- Currently, home inspectors are required to identify conditions that meet the statutory definition of “defect.” See Wis. Stat. § 440.97(2m).
- However, the law does not require home inspectors to call those conditions “defects” in the inspection report.

**3. This legislation provides that if the home inspector identifies a condition as a “defect” during the inspection, then the inspector must call it a “defect” in the inspection report.**

**4. Requiring home inspectors to use the word “defect” in the report when the home inspector has identified that condition as a “defect” during the inspection:**

- Offers certainty to the buyer about which condition the home inspector has identified as a “condition of any component of an improvement that would significantly impair the health or safety of future occupants of a property or that, if not repaired, removed, or replaced, would significantly shorten or adversely affect the expected normal life of the component of the improvement.” See Wis. Stat. 440.97(2m).
- Creates consistent terminology in inspection reports rather than some reports using phrases such as “significant concerns,” “safety and health issues” or “major issues.”

**5. AB 655/SB 599 requires the inspection report to include a summary page, offering a buyer a quick overview as to what the entire report provides.**

**6. As amended:**

- In addition to labeling conditions observed as “defects,” this legislation provides the inspector’s summary page should include the following:
  - Components needing repairs, further evaluation, monitoring and maintenance, but does not require those to be the specific labels in the report.
  - Statutory language educating the buyer that the summary is not a substitute for reading the entire report.
  - Statutory definition of “defect” in the home inspector statute, allowing the buyer to understand what the home inspector is required to label as a “defect” in the report.
  - Statutory language reminding the buyer the home inspector cannot comment on the marketability or value of the home.
- Inspection reports must meet the requirements of the legislation effective January 1, 2021.

**The WRA respectfully requests you support AB 655/SB 599.**



By making new homebuyers pay more in property taxes, Wisconsin families will have greater difficulty affording homeownership.



**RGD**  
20

# Prohibit Chasing Sales

[AB 691/SB 624]



**BILL AUTHORS**



Rep.  
**ROB BROOKS**  
Assembly District 60



Sen.  
**DAVE CRAIG**  
Senate District 28



**STATUS**

- Pending action by the Assembly Housing and Real Estate Committee.
- Pending action by the Senate Committee on Agriculture, Revenue and Financial Institutions.



## REALTOR® MESSAGE



The WRA supports AB 691/SB 624, legislation that seeks to better educate property owners and assessors about the prohibition on using the sales price of real estate as the sole basis for adjusting the assessed value, a practice known as “chasing sales.”

### TALKING POINTS

#### 1. The practice of chasing sales violates the uniformity clause in Wisconsin’s constitution.

- Wisconsin’s constitution requires all property tax assessments to be assessed uniformly.
- Specifically, Article VIII, Section 1 states, “The rule of taxation shall be uniform ...”
- The uniformity clause requires property tax assessments to be accurate and fair and prohibits assessors from giving preferential treatment to some property owners over others.
- According to the *Wisconsin Property Tax Assessment Manual*, the practice of adjusting the assessed value of some properties based upon a recent sale and not other properties in the same neighborhood is a violation of the uniformity clause. See WPTAM, 9-10.
- The manual states, “[s]ingling out specific properties as a result of a sale of the subject, while not addressing all properties, would be another arbitrary method of assessment resulting in non-uniform assessments.”

#### 2. Assessors regularly engage in the practice of chasing sales.

- Although the assessment manual prohibits the practice of chasing sales, assessors regularly increase the assessed value of property based on a recent sale.
- In a sampling of 24 communities around the state, an analysis by the *Milwaukee Journal Sentinel* in 2014 found that at least 5% of the new assessments were identical to a property’s selling price.
- In Racine County, for example, the assessor admitted to using the sale

price to establish the assessed value for 20% of the properties that sold in two communities she assessed.

#### 3. The practice of chasing sales results in new homebuyers paying more than their fair share of property taxes.

- When assessors adjust the value of recently sold homes without adjusting the values of other similar properties in the same neighborhood, the properties are not being assessed uniformly, and new homebuyers are required to pay more than their fair share of property taxes.
- By making new homebuyers pay more in property taxes, Wisconsin families will have greater difficulty affording homeownership.

**The WRA respectfully requests you support AB 691/SB 624.**





Wisconsin has not built enough homes to keep up with population and income growth, and construction costs are rising faster than inflation and incomes.



# Increase Workforce Housing Supply

[AB 544/SB 484 and additional legislative initiatives]



**BILL AUTHORS**

AB 544/SB 484



Rep.  
**JOHN NYGREN**  
Assembly District 89



Sen.  
**PATRICK TESTIN**  
Senate District 24



**STATUS**

**Rural workforce housing initiative:**

- AB 544 was passed unanimously by the Assembly.
- SB 484 is pending action by the Senate Utilities and Housing Committee.



**BILL AUTHORS**

AB XXX/SB XXX



Rep.  
**ROB BROOKS**  
Assembly District 60



Sen.  
**DAN FEYEN**  
Senate District 18



**STATUS**

**Local regulatory reform incentives:**

- AB XXX is currently being considered by the Assembly Housing and Real Estate Committee.
- SB XXX is currently being considered by the Senate Utilities and Housing Committee.



## REALTOR® MESSAGE



The WRA supports various legislative initiatives aimed at increasing the workforce housing supply: (1) Rural workforce housing initiative (AB 544/SB 484); (2) Local regulatory reform incentives and workforce housing TIDs; (3) DOA housing reports storage and dissemination; (4) Older housing rehabilitation tax credit; (5) Workforce housing tax credit program; and (6) Sales tax exemption for building materials used for workforce housing. At press time, only one initiative has been assigned an Assembly/Senate bill number.

## BACKGROUND

Wisconsin employers are finding it increasingly difficult to recruit workers unless the nearby area has attractive and affordable housing options. 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 problem. Unless this workforce housing problem is fixed, Wisconsin will be unable to keep and attract the skilled workers necessary for its economy to thrive.

While numerous factors play a role, a recent study conducted by Professor Kurt Paulsen with the UW-Madison Department of Urban and Regional Planning identifies the following reasons for Wisconsin's workforce housing shortage:

1. **Wisconsin has not built enough homes to keep up with population and income growth:** Compared to pre-2009 recession levels, Wisconsin is creating 75% fewer lots and 55% fewer new housing units.

2. **Construction costs are rising faster than inflation and incomes:** Since the Great Recession, construction costs have increased by 14.7% in Madison, 14.9% in Milwaukee, and 16.2% in Green Bay. The increased construction costs are due to increased material prices, but also due to a "severe labor shortage." Dr. Paulsen's report cites an Association of General Contractors survey indicating 73% of Wisconsin construction firms reported labor shortages.
3. **Outdated land use regulations drive up the cost of housing:** Local land use regulations such as large minimum lot sizes, prohibitions on non-single-family housing, excessive parking requirements, requirements for high-end building materials, and long approval processes raise the cost of housing.

## TALKING POINTS

### RURAL WORKFORCE HOUSING INITIATIVE (AB 544/SB 484)

This legislation directs WHEDA to create two new initiatives aimed at increasing the supply of workforce housing in rural areas:

1. **Pilot program for new workforce housing**
  - Develop a competitive workforce housing pilot program for rural communities to encourage the creation of single-family and multifamily workforce housing.
2. **Rehabilitation loans for older single-family housing**
  - Create a single-family rehabilitation loan product in targeted rural areas through partnerships with local lending institutions and community development organizations.





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# Workforce Housing

## AB 544/SB 484 and additional legislative initiatives

### TALKING POINTS

#### LOCAL REGULATORY REFORM INCENTIVES AND WORKFORCE HOUSING TIDS (AB XXX/SB XXX)

To encourage the development of new workforce housing, local municipalities would receive priority for such grants by completing three or more workforce housing initiatives.

The workforce housing initiatives include the following:

- Reduce permit processing times.
- Reduce development impact fees.
- Reduce parking requirements.
- Increase allowable densities.
- Establish a workforce housing or mixed-use development tax increment district (TID).
- Complete the housing affordability report specified under Wis. Stat. § 66.10013.
- Rehabilitate existing uninhabitable housing stock.
- Allow for workforce housing in commercial and mixed-use zones.
- Create workforce housing near major transit corridors.
- Reduce street sizes.
- Implement any other workforce housing initiatives.





## WORKFORCE HOUSING TIDS

To help increase the supply of workforce housing units, the bill allows municipalities to:

- Increase the percentage of residential housing allowed in a TID from 35% to 60% if the increase is used for workforce housing.
- Extend the life of a TID for up to three years to increase the number of affordable and workforce housing improvements.



### BILL AUTHOR



Rep.  
**ROB SUMMERFIELD**  
Assembly District 67

### DOA Housing Reports Storage and Dissemination (AB XXX/SB XXX)

Expands the scope of the housing affordability report requirement to all municipalities with a population of 5,000 to 9,999 (currently 10,000) and adds a penalty for not completing the report on time. Also requires the Wisconsin Department of Administration to collect data from all housing affordability reports.

### Older Housing Rehabilitation Tax Credit (AB XXX/SB XXX)

Creates a tax credit up to \$15,000 per year (10% of up to \$150,000 spent) on rehabilitation expenses on single-family, owner-occupied residences built before 1980 and that have a fair market value equal to or less than the median price of a single-family home in the same county.

### Workforce Housing Tax Credit Program (AB XXX/SB XXX)

Creates a 4% state tax credit for the development of new housing for individuals within 61-100% of the area median income. A 10-year restrictive covenant will be recorded on the housing units to ensure they remain affordable.



### BILL AUTHORS



Rep.  
**BOB KULP**  
Assembly District 69



Rep.  
**ROMAINE QUINN**  
Assembly District 75

### Sales Tax Exemption for Building Materials Used for Workforce Housing (AB XXX/SB XXX)

Creates an exemption from state sales tax for all building materials used in the construction of workforce housing.

**The WRA respectfully requests you support AB 544/SB 484 and these additional legislative initiatives.**



# Thank you!

Thank you for attending the WRA's lobbying event, REALTOR® and Government Day, an annual opportunity for you to shape and advocate for laws that affect real estate in Wisconsin. Here's a look at some of your fellow REALTORS® who have brought a voice to the Capitol this legislative session and helped advocate for issues important to the real estate industry.

## WRA REALTOR® CHAMPIONS

### REALTOR® MEMBERS WHO ARE LEGISLATORS IN THE STATE CAPITOL

**Sen.** Duey Strobel

**Rep.** Scott Allen

**Rep.** Rob Brooks

**Rep.** John Jagler

**Rep.** Scott Krug

**Rep.** Romaine Quinn

**Rep.** Jim Steineke

### REALTOR® MEMBERS WHO TESTIFIED IN SUPPORT OF THE WRA'S LEGISLATIVE PRIORITIES

Mary Duff

Laurie Logan

Robert Procter

Monika Ramsey

Tim Roehl

Dawn and Mike Spranger

Tom Weber

## 2020 Public Policy Committee Members

### REALTORS® WORKING TO GUIDE ADVOCACY AND POLICY-MAKING DECISIONS

Michael Alex  
David Allen  
Michael Bauman  
Stephen Beers  
Rosemarie Bogosian  
Steve Bostrom  
Martha Burkett  
Barbara Chudik  
John Crimmings  
Cynthia Dixon  
John Flor  
Hiam Garner  
Rita Gast  
Caryn Gates  
Gerald Glazer  
Gerald Grosenick  
Terry Hilgenberg

Jeffrey Hoffman  
Angela Kallay  
Patricia Kaster  
Jeffrey Kaus  
Darren Kittleson  
Scott Klaas  
Joseph Kress  
Laura Kruschka  
Michael Kunesh  
Daniel Lawler  
Laurie Logan  
Bradley Lois  
Roger Mater  
Kim Moermond  
Lori Muller  
Kristin Newman  
Julie Nikolaou

Omar Ortiz  
Grace Parrish  
Anne Paulus  
Maxelle Rea  
Benjamin Rivard  
Timothy Roehl  
Alex Saloutos  
Linda Schubring  
Joan Seramur  
James Somers  
Peter Stueck  
Peter Sveum  
Jessica Vroman  
Bernadette Weiss-Rhodes  
Adam Williquette  
Paula Woodward  
Michael Zahrt



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