REALTORS® Association of Northwestern Wisconsin

THE GAD REPORT

VOLUME 13, ISSUE 5

MARCH 2020

SPECIAL SECTION: REALTOR® & GOVERNMENT DAY 2020

REALTOR® & GOVERNMENT DAY SUCCESS

44 REALTOR® members from RANWW, over 340 from Wisconsin met in Madison to discuss issues important to real estate and land use during REALTOR® & Government Day on February 5th.

Of our 44 attendees, 22 were <u>first-time attendees</u>. Several commented that they were pleasantly surprised on how smoothly the day's programming went and attendance for our hill visits was the second largest gathering in over 15 years.

Not only did we fill the conference room, we had attendance from *every representative within RANWW's jurisdiction*, Senators & Representatives alike as well as

many of their staff's. This is the reason we work so hard to get attendance at events like this, so that our elected officials understand the importance of our issues for our industry, but also for the support and preservation of the rights of private property owners.

In order for all of our members to see the issues and bills that were discussed, the following special section has excerpts from the official program.



Text REALTORS to 30644 to get alerts on CALLS FOR ACTION SIGN UP TODAY >





AN ALL NEW GAD REPORT NEXT MONTH

If you read *The GAD Report* every month (you do read it, right?), you probably notice that it's looked the same for a very long time.

Over 13 years to be exact.

That will change next

month when we roll out a new look GAD Report.

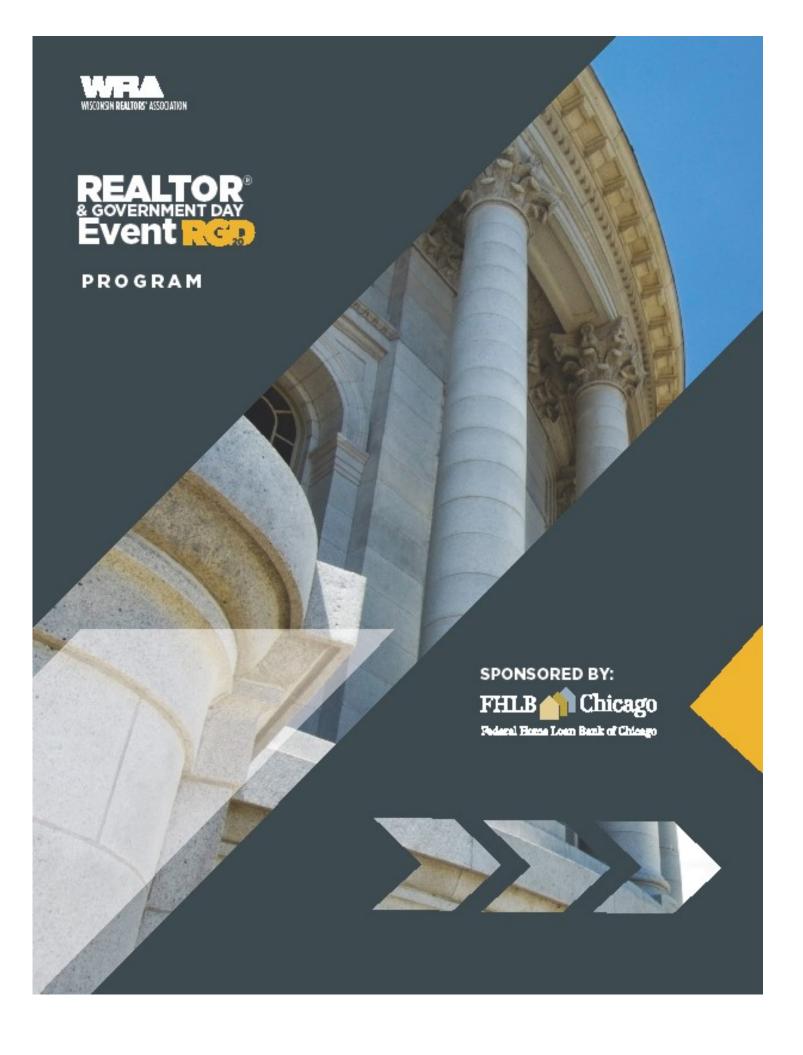
There will be more opportunities to write quick stories on land use, zoning, housing and the like that will encompass our entire 15 county jurisdiction.

It will also include a list

of Legislative contacts on the back page of the publication that will be there every month should you need to reach out to your legislator.

Watch for the all new GAD Report, coming to your email next month.

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RCD

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



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

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:

 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.

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.

- 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.
- 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.





RCD

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.



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:

- 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 twobusiness-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.

Clarifles 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.

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.

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.



F(C'20)

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.

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

- 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.
- 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.
- 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."
- 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.



RCP)

Prohibit Chasing Sales

[AB 691/SB 624]



BILL AUTHORS



ROB BROOKS
Assembly District 60



Sen.

DAVE CRAIG

Senate District 28



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



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."

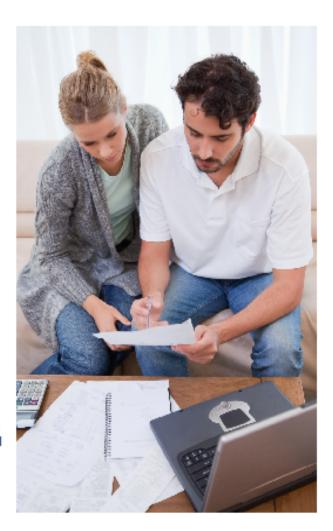
TALKING POINTS

- 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 nonuniform assessments."
- 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.

- 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.





Increase Workforce Housing Supply

[AB 544/SB 484 and additional legislative initiatives]



BILL AUTHORS



Rep. JOHN NYGREN Assembly District 89



Sen.
PATRICK TESTIN
Senate District 24



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





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.

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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:

 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.

- 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.
- 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 highend 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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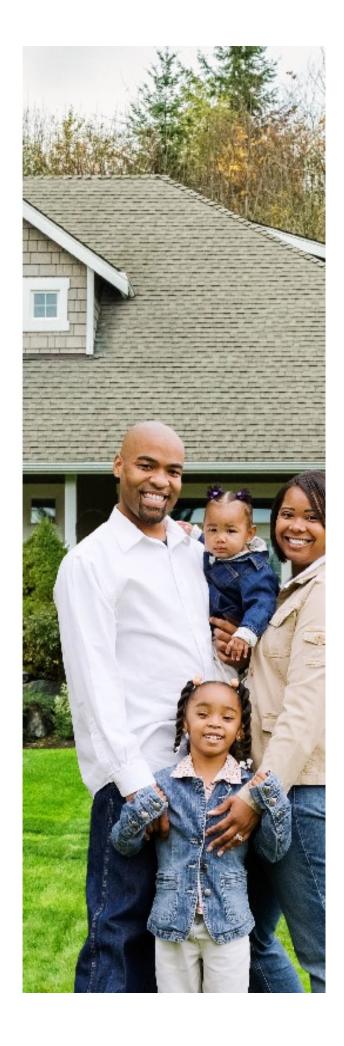
Workforce Housing AB 544/SB 484 and additional legislative initiatives

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.





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



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

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

construction of workforce housing.



Here's a program that helps support local and state candidates

Invest \$50 per month, charged monthly to your Visa, Mastercard or American Express card

Candidates and incumbents for local offices and the state Legislature need your support

Support those who support real estate and land use as well as private property rights

Go to: https://www.wra.org/dgcontribution/ to set up your Direct Giver investment





RANWW Needs YOU to join the Large Donor Council in 2020

Invest \$85 per month, charged monthly to your Visa, Mastercard or American Express card

Candidates and incumbents for local offices and the state Legislature need your support

Support those who support real estate and land use as well as private property rights

Go to: https://www.wra.org/dgcontribution/ to set up your Large Donor Council investment



12 Reasons to Renew or Begin Your Large Donor/Major investor Council Membership

- 1. In 2010, some appraisers and the City of Milwaukee wanted legislation passed that would prevent real estate licensees from giving **opinions of value** unless they had an appraiser's license. It didn't pass thanks to your help and the WRA's efforts to kill this legislation.
- 2. In some states, local governments can **regulate brokerage services** that are currently regulated by state and federal laws. Not in Wisconsin! The WRA helped pass a law that prohibits local governments from interfering with Wisconsin license law.
- 3. In some states, attorneys are required at every closing. Not in Wisconsin! Your right to use **state approved forms** was reaffirmed by the state Supreme Court, thanks to an amicus brief filed by the WRA.
- 4. In some states and municipalities, state or local governments have **rent control** laws or ordinances. Not in Wisconsin! The WRA took the lead years ago and helped pass a law that prohibits local rent control.
- 5. Some members of Congress wanted to eliminate the **mortgage interest deduction** for second homes. The NAR and WRA were successful in maintaining this deduction because of the importance of second homes to the real estate market in Wisconsin.
- 6. Prior to 2016, Wisconsin REALTORS® could be sued up to six years after a closing. Today, we have significantly improved liability protection for real estate firms and agents by creating a **two-year statute of limitations** from closing.
- 7. For years, some Wisconsin municipalities imposed expensive and unnecessary **time of sale requirements** on property owners. Not anymore! Wisconsin law now prohibits local time of sale requirements that would limit or impede a property owner's right to transfer property.
- 8. For 30 years, the State of Wisconsin imposed **weatherization requirements** on rental properties. Not now! The legislature eliminated the rental weatherization program, which required weatherization of rental units and certification before the property was sold or transferred.
- 9. Some Wisconsin municipalities prohibited homeowners from **renting their property** on a short-term basis. Today, we have a new law that protects the ability of homeowners to rent out their home by allowing local communities to regulate but not prohibit such rentals for seven days or more.
- 10. Historic rehabilitation is a priority for communities across the State of Wisconsin. Through the efforts of the WRA and other allies, Wisconsin maintains the **state historic rehabilitation tax credit** up to \$3.5 million per project.
- 11. Some Wisconsin cities imposed rigid and expensive **rental property inspection programs**. A new law limits the authority of municipalities to conduct inspections of rental property unless there is evidence of blight, high rates of building code complains or violations, deteriorating property values, or increase in single family home conversions to rental units.
- 12. Over the years, some state lawmakers have made several attempts to increase the **real estate transfer tax**. The WRA has stopped all these proposals, including the last proposal to double the transfer fee that would cost your seller hundreds of dollars on the sale of their home.

This is only a small sample of our legislative successes at the State and Federal level, made possible by your contributions so we can support candidates who support our industry.



REALTORS® Association of Northwestern Wisconsin

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"RANWW/NWWMLS UNITE TO ADVOCATE FOR REAL PROPERTY RIGHTS, ADVANCE PROFESSIONALISM AND CONNECT MEMBERS WITH OUR COMMUNITIES."

The REALTORS® Association of Northwestern Wisconsin is the largest association in terms of area, stretching from Millston, Whitehall and Fountain City to the south all the way to central Bayfield and southern Ashland county to the north. We are the fourth largest of the 19 Associations in terms of membership. Your Association covers 385 units of local government, monitoring a wide variety of issues that can and do affect you. In addition to local government, your GAD also monitors issues at the state and national level that will have a direct or indirect impact on housing and the industry, as well as legislation that can affect the consumer. Your Government Affairs Director works with members and affiliates to raise investment dollars for RPAC that help to support elected officials that support your business. RANWW is one of only three REALTOR® Association's in Wisconsin that have their own PAC, which was started 41 years ago to support candidates at the local and state level. We maintain a Facebook page, called "The GADabouts", that aims to keep you up to date on political issues that will affect your business. Your GAD also produces a periodic government affairs program posted on our YouTube channel, RANWWTV!!

MY THOUGHTS—BY BRUCE KING

REALTOR® & Government Day truly makes a difference when we show up in numbers that legislators and their staffs are impressed by.

This year, we impressed them. One chair short of standing room only in the meeting room, every legislator that represents RANWW in the room, along with a number of staffers that attended at least part of the program.

Moving forward, we will be reaching out to you in the same way that we did this year, with a personal appeal weeks in advance of the event in order to give as many of you an opportunity to make an impact in Madison

We will be placing an emphasis on new REAL-TORS® thru New Member Orientation to secure as many of our newest agents as possible to attend. This year, 50% of our attendees were first-timers.

I have included parts of the official program so that all of our members know what issues were discussed during our hill visits. Some of the bills have had public hearings, while others have had a vote in the Assembly and are waiting a vote in the Senate. A number of bills regarding workforce and affordable housing are being addressed, and those that are not, will be brought back in January.

Workforce housing will be a major issue with WRA moving forward in both the short term and long term. You can expect to be hearing much more about the efforts to address this critical issue in the months and years ahead.

To the 44 that attended this year, thank you! To the rest of our members, please plan to attend next year's event in Madison!

