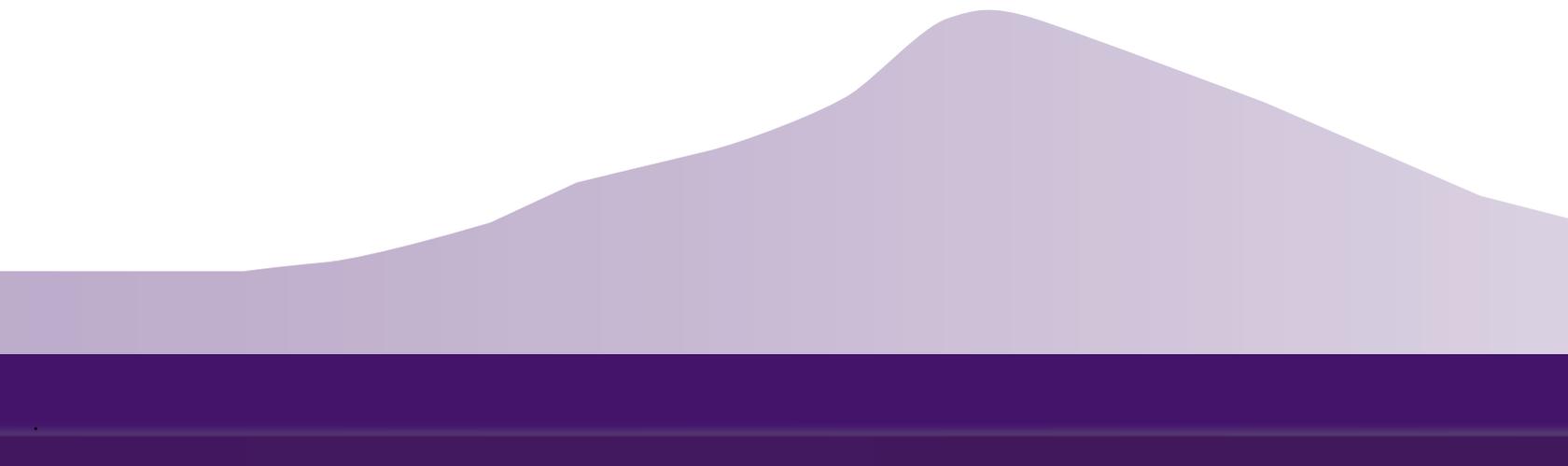


2015-2016 Washington REALTORS® **LEGISLATIVE REPORT**



W a s h i n g t o n R E A L T O R S ®

Promoting expertise in real estate



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2015-2016 Washington REALTORS® LEGISLATIVE REPORT

Introduction

During the 2015-2017 State Legislative Biennium, Washington REALTORS® worked to successfully advance our legislative priorities that defend and strengthen our industry, our livelihood and the best interests of our clients and communities. Lawmakers in Olympia acknowledge our industry as a huge contributor to the increased health of Washington state's economy and our efforts help to ensure continued recovery.

With an Association that is 17,000 members strong, REALTORS® were effective during the two legislative sessions through dedicated member involvement. More than 400 REALTORS® each year met with state legislators during our annual Legislative Days to discuss our priorities. Thousands responded to calls to action during the sessions. And, the committed teamwork of the Washington REALTORS® Legislative Steering committee, its staff and lobbyists—have been strong and effective advocates for our industry.

“Washington REALTORS® leadership in forming the Recover Washington coalition was critical in promoting key budget policies of funding education first, not last – and protecting and our state's economy and small businesses from tax increases. REALTORS® members around the Washington State should be proud of the results they have achieved in Olympia.”

Sen. Mark Schoesler
Senate Majority Leader

The Landscape

The 2015-16 Washington Legislature convened in January 2015 with tax revenues recovered from the economic recession, in large part due to a revived housing market. Though tax revenue had stabilized, the State Legislature had to address the Washington State Supreme Court's McCleary decision on funding of basic education. The Court ruled that the Legislature was not meeting its State Constitutional obligation to provide adequate funding for basic education, relying too heavily on local district levies. Further, the Court imposed sanctions on the Legislature for not implementing educational reforms and increased funding quickly enough.

To increase education funding, Governor Inslee and the House of Representatives proposed a number of tax increases, some of which would have harmed the real estate industry and property owners. Major proposals included an increase the business and occupation (B&O) tax on real estate brokers and other service businesses, and a new state tax on income from capital gains, including the sale of real estate. REALTORS® successfully opposed these tax measures, and ultimately a two-year operating budget passed without tax increases impacting real estate or property owners. The 2015 session included multiple special sessions, lasting into the early days of July—nearly a record for the longest legislative session.

With relatively stable tax revenues, the 2016 Session supplemental budget focused on issues such as costs from 2015's wildfire season, homelessness issues, and adopting a work plan to enable the Legislature to comply with McCleary funding requirements during the 2017 Session.

By the end of both sessions, REALTORS® had succeeded in passing or opposing bills to improve our industry, protect real estate brokers and guard home ownership and property owners by:

- Stopping a 20% increase on the B&O tax
- Beating back a 7% tax on the profit of second homes & investment properties
- Funding the Washington Center for Real Estate Research for another 10 years
- Clarifying that REALTORS® can market "floating homes"
- Passing a better system for disputed earnest money
- Deferring the payment of impact fees
- Protecting a Real Estate Excise Tax (REET) exemption
- Preventing point of sale requirements
- Ridding the state of "patent trolls" that could prey on REALTORS®
- Preventing fees on condominium conversions and home demolitions
- Passing a transportation package that brings jobs and much-needed infrastructure

Our legislative efforts succeeded on the issues that matter most to REALTORS® throughout Washington, such as limiting regulations that can complicate transactions, and preventing harmful tax increases like the proposed state capital gains income tax on real estate. For the hundreds of REALTORS® who participated in our Legislative Hill Day in Olympia in 2015 and 2016—your voice was heard!

Karen Schweinfurth
Washington REALTORS®
2016 President

The Legislation

Though Washington REALTORS® reviewed hundreds of bills to understand their impact on real estate, the following is a brief overview of what we accomplished and what work there is to do in future sessions.

Consumer & Business Issues

Washington REALTORS® is committed to protecting the real estate transaction, defining the duties of real estate brokers and providing adequate information to buyers and sellers to ensure reliability and clarity in the sale of real property.

HB 1730 (Kirby, Vick)

Establishing Statutory Procedures for the Return of Disputed Earnest Money

(WR – Support, PASSED)

This bill established a cost-effective process to enable the return of disputed earnest money when a transaction does not close. Prior to this bill, earnest money disputes could often take months to resolve, tying up funds that a buyer may need for a transaction. Or, earnest money disputes could only be solved through court action with costs exceeding the value of the earnest money. Under HB 1730, a statutory notice and response process is established to enable title or escrow companies to properly return earnest money without risk of liability.

SB 5288 (Braun, Conway)

Extending \$10 Surcharge to Fund Washington

Center for Real Estate Research at UW

(WR – Support, PASSED)

The Washington Center for Real Estate Research is housed at the Runstad School at the University of Washington. Since the 1990's, the Center has provided important research services for the real estate industry, local governments, and policymakers on a wide variety of real estate, housing, and land use subjects. The Center is funded in part through a \$10 surcharge on the real estate license fee. This bill extended the expiration date of the \$10 surcharge through 2025.

HB 1309 (Vick, Kirby)

Including the Sale of Floating Homes Within Definition of Real Estate Brokerage Services

(WR – Support, PASSED)

REALTORS® in Seattle alerted Washington REALTORS® to questions about whether the definition of “real estate brokerage services” in RCW Chapter 18.85, the real estate license law, allowed REALTORS® to sell floating homes. Further, the sale of floating homes could have arguably been limited to persons holding vessel dealer licenses. HB 1309 solved this problem by modifying the real estate license law to allow the sale of floating homes, and also by clarifying that a real estate licensee does not require a vessel dealer’s license.

SB 5156 (Keiser, Warnick)

Adding Elevators and Human Conveyances to the Seller Disclosure Form

(WR – Support, PASSED)

Over the last few years, elevator industry representatives have sought increased regulations concerning elevator or lift inspections that would be required when a property is listed or sold. While REALTORS® opposed these point of sale requirements, we supported compromise legislation that added questions concerning the condition of elevators and lifts to the state seller disclosure form.

SB 5059 (Frocht, Fain)

Protecting Businesses Against Patent Troll Litigation

(WR – Support, PASSED)

Patent troll litigation seeks to extract money from businesses by raising baseless claims that devices, images, or products used by that businesses are subject to patent protections. The National Association of REALTORS® is seeking to limit this litigation at the federal level. In Washington, REALTORS® supported Attorney General Bob Ferguson’s bill that will prohibit these types of misleading patent claims against small business owners.

SB 5961 (Benton, Hobbs)

Creating a Process to Resolve Condominium Construction Defects

(WR – Support, FAILED)

Based on REALTORS® research showing that builder liability concerns presented a major impediment to construction of new condominiums, SB 5961 was developed to establish a “right to cure” process for construction defects. While this bill did not pass, the Washington Center for Real Estate Research at UW’s Runstad School will further review this issue during the 2016 – 17 legislative interim.

HB 2423 (Kilduff, Wylie); SB 6212 (Rivers, Cleveland)

Establishing A Homeowner’s Association Ombudsman Program in Office of Attorney General

(WR – Oppose, FAILED)

Homeowner association (HOA) disputes have become increasingly complex and difficult to resolve, especially within those associations that lack professional management or that have outdated governing documents. These bills would have established a dispute resolution process with the Attorney General’s Office. REALTORS® opposed these bills based on the breadth of issues and authority granted to the AG’s office. REALTORS® will continue to be involved in efforts to reform HOA laws.

Housing, Land Use & Environmental Issues

Washington REALTORS® promotes housing affordability and encourages wise planning to improve infrastructure in our growing communities. We work to guard the rights of property owners from over-regulation, while maintaining effective environmental protections.

SB 5407 (Pearson, Bailey)

Providing Water Supply in Skagit River Basin

(WR – Support, FAILED)

Property owners in rural Skagit County have been unable to obtain water supply for residential building permits because of a regulation adopted by the Department of Ecology that restricts new wells. This bill would have allowed new wells in rural Skagit

County, and ordered Ecology to review its regulation to provide sufficient water supply in areas of Skagit County impacted by Ecology current rule.

SB 5923 (Brown, Liias)

Delaying Payment of Residential Impact Fees Until Issuance of Building Permit or Occupancy

(WR – Support, PASSED)

This bill requires cities and counties collecting residential impact fees to adopt a system that defers the payment of the impact fee until the final inspection, certificate of occupancy, or sale of the property. This new system also establishes the impact fee amount as a lien against the property that a local government can seek to collect if unpaid.

SB 6525/HB 2841

Establishing a Legislative Task Force to Review State Building Code Council

(WR – Support, FAILED)

The State Building Code Council (SBCC) process has been a source of frustration in recent years, due to frequent code changes, lack of economic impact analysis, and adequacy of representation of construction interests. The SBCC has also asserted that additional fee revenue is needed to keep the agency operating at current levels. These bills establish a legislative task force to review certain SBCC functions, which could include future building permit fee increases. Building permit fee increases were considered, but not included in the final legislation.

SB 5921 (Honeyford, Hatfield)

Preserving Common Law Land Use Vesting Doctrine

(WR – Support, FAILED)

For decades, Washington State’s vested rights doctrine provided certainty by requiring that a land use proposal be evaluated under the land use ordinances in effect at the time a complete application is submitted. However, a 2015 state Court of Appeals decision limited vested rights, concluding that it applied only to those types of applications codified in the vested rights statute. This bill provided that in addition to statutory vested rights, that the common law vested rights doctrine still exists.

HB 1314 (Fitzgibbon, Hunter)

Creating a Carbon Emissions Cap and Trade Program

(WR – Oppose, FAILED)

This legislation, introduced at the request of Governor Inslee, would establish a “cap and trade” system for carbon emissions under which a gradually declining cap for carbon emissions would be established. This cap would apply to the major sources of carbon emissions in Washington, which would be able to trade carbon emissions allowances. While creating a carbon emission cap and trade program was a top priority for Governor Inslee during his first four years in office, the proposal has yet to even have a floor vote in either the House or Senate.

SB 6420 (Roach, Takko)

Establishing a Buildable Land Capacity

Review under the Growth Management Act

(WR – Support, FAILED)

The Growth Management Act requires certain counties to complete Buildable Lands Reports that analyze the available of land for new development. However, the Buildable Lands Programs lack enforcement and often rely on incorrect data. SB 6420 provided that reasonable measures that could be taken to achieve growth include changes to Urban Growth Areas and allow the division of lands within UGAs even if not served by sewer service. The bill also required local governments to use a new land capacity analysis as part of the Buildable Lands Report.

HB 2527 (Peterson, Goodman)

Puget Sound Septic Programs and Fee

(WR – Monitor, FAILED)

Failing septic systems often pose problems for homeowners and local health agencies, and can complicate real estate transactions. HB 2527 provided authority to the Department of Health to establish a low-interest loan program to assist homeowners with the repair and replacement of on-site sewage systems. In addition, Puget Sound counties were directed to update existing on-site septic management plans at least once every five years. Disagreement over the bill concerned how new fee authority would relate to existing septic fees charged in some counties.

I-732–Establishing a Carbon Tax

(WR – Monitor, FAILED)

I-732 was an initiative to the Legislature from the non-profit Carbon Washington, establishing a carbon tax and reducing other state taxes in an attempt to make the proposal revenue neutral. If the Legislature does not pass the initiative, then it will appear on the statewide fall ballot. The Legislature can pass an initiative, in which case it becomes law; or it can pass an alternative in which case both the original and alternative version appear on the statewide ballot. Fiscal analysis of I-732 showed that it would not be revenue neutral, as the tax repeal provisions would result in a net loss of state tax revenue. Because the Legislature did not act on the original version or an alternative, the original I-732 will appear on the statewide ballot.

HB 2397 (McBride, Robinson)

Authorizing Cities to Impose A Demolition

Fee on Existing Housing

(WR – Oppose, FAILED)

HB 2397 authorized cities to impose a fee on the demolition of existing housing, if the demolition is for the purpose of building one or more new residential structures that are not for affordable or low-income housing purposes. The fees collected by the local government must be used for an affordable housing fund established by that city. For each single-family residence, a demolition fee of up to \$5,000 may be charged; for multi-family buildings, a fee of up to \$2,500 may be charged up to an aggregate maximum of \$25,000.

HB 2395 (McBride, Robinson)

Authorizing Cities to Impose a Fee on

Condominium Conversions

(WR – Oppose, FAILED)

This bill authorized cities to impose a fee when a residential rental property is subject to a condominium conversion and conveyed to a new owner. The money collected through the fee must be used for an affordable housing fund established by the city. The condominium conversion fee is based on the number of units converted, with a two-unit residence having a fee of up to \$0.95 per square foot of floor area, up to residential buildings with 10 or more units having a conversion fee of up to \$4.75 per square foot of floor area.

Tax & Fiscal Issues

Washington REALTORS® opposes tax increases on small businesses, homes and property to ensure housing affordability and the health of real estate markets that are so vital to state and local economies.

HB 2122 (McBride, Nealey)

Providing Flexibility in Use of Local Real Estate Excise Tax Revenues While Limiting and Improving Transparency in Local Real Estate Regulations

(WR – Support, PASSED)

HB 2122 provides local governments with the ability to use existing local Real Estate Excise Tax (REET) revenues to maintain capital projects if certain conditions are met. The conditions include reporting requirements on total local REET revenue and how that REET is used, and that the local government has not adopted local point of sale requirements on the listing or sale of real estate. In addition, local seller disclosure ordinances must be electronically posted by the Municipal Research Services Center (MRSC) to be legally effective.

HB 1484 (Jenkins, Hunt); SB 5699 (Nelson, Darnielle); SB 6102 (Ranker, Hargrove)

Establishing a Tax on Capital Gains Income

(WR – Oppose, FAILED)

A state capital gains income tax was a cornerstone of the budget proposed by Governor Inslee. While a number of different versions were considered, the structure of the capital gains income tax bills included a tax rate between 5% and 7% on long-term capital gains, a certain exclusion limits that varied, and consistency with federal capital gains definitions. While some versions excluded capital gains from the sale of a primary residence, all bills would have impacted capital gains from real estate held for investment purposes—without any tax credit or recognition of Washington’s REET, one of the highest in the nation.

SB 5987 (King, Hobbs)

Approving Statewide Transportation Project Revenue

(WR – Support, PASSED)

This bill was part of the overall statewide transportation package, the culmination of a multiyear effort to generate new revenue for priority transportation projects around Washington State, and authorize local voter-approved revenues. The package includes a \$.12 increase in the state gas tax, increases in a number of transportation fees, and authorized local transportation districts in Kitsap, King, Pierce, and Snohomish Counties to seek voter-approval for additional local transportation funding from sales and use tax, property tax, and other sources.

HB 2539 (Nealey, Hansen)

Documenting REET Exemption for Property Transfers by Operation of Law

(WR – Support, PASSED)

During 2015, REALTORS® in a few counties experienced problems in transactions where the seller had obtained title to property through a transfer by operation of law, most commonly by inheritance. While a property transfer by inheritance has always been exempt from state and local REET, some county treasurers sought to apply REET when the transfer could not be documented by a will or other written instrument. This legislation addressed that problem by establishing a process to document the transfer of property that occurs by operation of law, to preserve the existing REET exemption.

SB 6109 (Dammeier, Litzow)

Reforming Local School District Levy Rates to Comply with McCleary Decision

(WR – Support, FAILED)

In its McCleary decision, the State Supreme Court ruled that because the state had not provided adequate funding for basic education, that local school district operating levies had been increased to address this shortfall. The Court ordered the Legislature to reduce the reliance of local district on operating levies for basic education funding. Over the past four years, a number of “local levy exchange” or “property tax swap” proposals have been developed to address this problem. SB 6109, like other prior versions, sought to

reduce local property taxes funding operating levies, and increase the state property tax levy by a roughly equal amount. The Legislature's McCleary Task Force will continue to refine this concept during the 2016-17 interim for adoption in 2017.

SB 6195 (Rivers, Rolfes)

Establishing a Legislative Work Plan to Comply with McCleary Decision

(WR – Monitor, PASSED)

While the Legislature could not agree on education policy reforms or funding necessary to comply with the McCleary decision, it did adopt a bipartisan workplan to review key issues prior to the 2017 Legislature. These issues include the local levy exchange, teacher compensation and bargaining, and overall levels of education funding. SB 6195 establishes the parameters for the Legislature's interim work before the 2017 Legislature.

SB 5628 (Keiser, Honeyford)

Providing Funding for Water Supply and Clean Water Infrastructure

(WR – Oppose, FAILED)

SB 5628 was developed by interests in the Yakima Basin seeking to fund water supply infrastructure, Chehalis Basin supporters of a major flood storage project, and environmental interests seeking additional funding for stormwater control in Central Puget Sound. These three major funding areas would each require at least \$1 billion in new funding for specific projects, and worked to identify possible funding sources. While additional REET or property transfer fees were considered, the proposal before the Legislature relied on a parcel fee that would be applied to every parcel of land in Washington. The specific fee amount would be based on the size of the parcel, with a maximum fee for owners of multiple parcels. The effort to identify funding for these projects will continue in the 2017-19 biennium.

SB 5624 (Keiser, Honeyford)

Establishing a Local Government Infrastructure Loan Program in State Treasurer's Office

(WR – Monitor, FAILED)

As the Legislature has sought to increase funding for basic education to comply with the McCleary decision, one of the largest sources of funding has been to divert available money and future tax revenues from the state's Public Works Trust Fund (PWTF). This program was established in the 1980's to provide low-interest loans to local governments and special purpose districts, using parts of the state's utility tax, solid waste tax, and REET. As PWTF funds have been diverted, SB 5628 was developed to establish a new market-rate loan program through the State Treasurer's Office. The program would enable local governments to borrow funds at the state's bond rate, and a Constitutional Amendment would provide that debt issued for local infrastructure projects do not count against the state's Constitutional debt limit.

SB 6239 (Fain, Frockt)

Expanding the Affordable Housing Property Tax Exemption for Existing Properties

(WR – Support, FAILED)

SB 6239 originated in the City of Seattle's Housing Affordability and Liveability Agenda (HALA) process, as one of the group's consensus recommendation on how to address housing supply and affordability. Under this proposal, the current local property tax exemption available for the construction of new units made available for affordable housing would be expanded to also apply to existing multifamily properties. The owner of an existing multifamily property would be eligible for the property tax exemption for up to 15 years, if up to 25% of units were made available for low and moderate income tenants. The bill had strong support from cities, low income housing advocates, and the real estate industry, but stalled in the House of Representatives due to the position of House leaders who opposed the extension of property tax benefits to private developers—even if more affordable housing resulted.

REALTORS® Powerful PAC

REALTOR® PAC is now the largest PAC in the state with more than \$1 million in contributions. REALTOR® PAC supports the “REALTOR® Party”— candidates and elected officials regardless of party who support our principles. REALTORS® are a powerful and positive influence on state issues that affect our economic health, housing opportunities, the business of real estate and the brokers who make it happen.

If you have not made your REALTORS® PAC investment, please invest today at www.warealtor.org.

“

REALTORS® give generously because they clearly understand how RPAC protects homes, businesses, communities and our own livelihood. REALTORS® PAC is now the largest PAC in Washington State, and we are prepared to support REALTOR®-friendly candidates in statewide and legislative races during 2016.”

”

Kitty Wallace

REALTORS® Political Action Committee
2015-2016 Chair





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