

REALTOR®
★ 2016 ★
LEGISLATIVE
REPORT

Improving Wisconsin's quality of
★ life one home at a time.



REALTORS® POLITICAL ACTION COMMITTEE

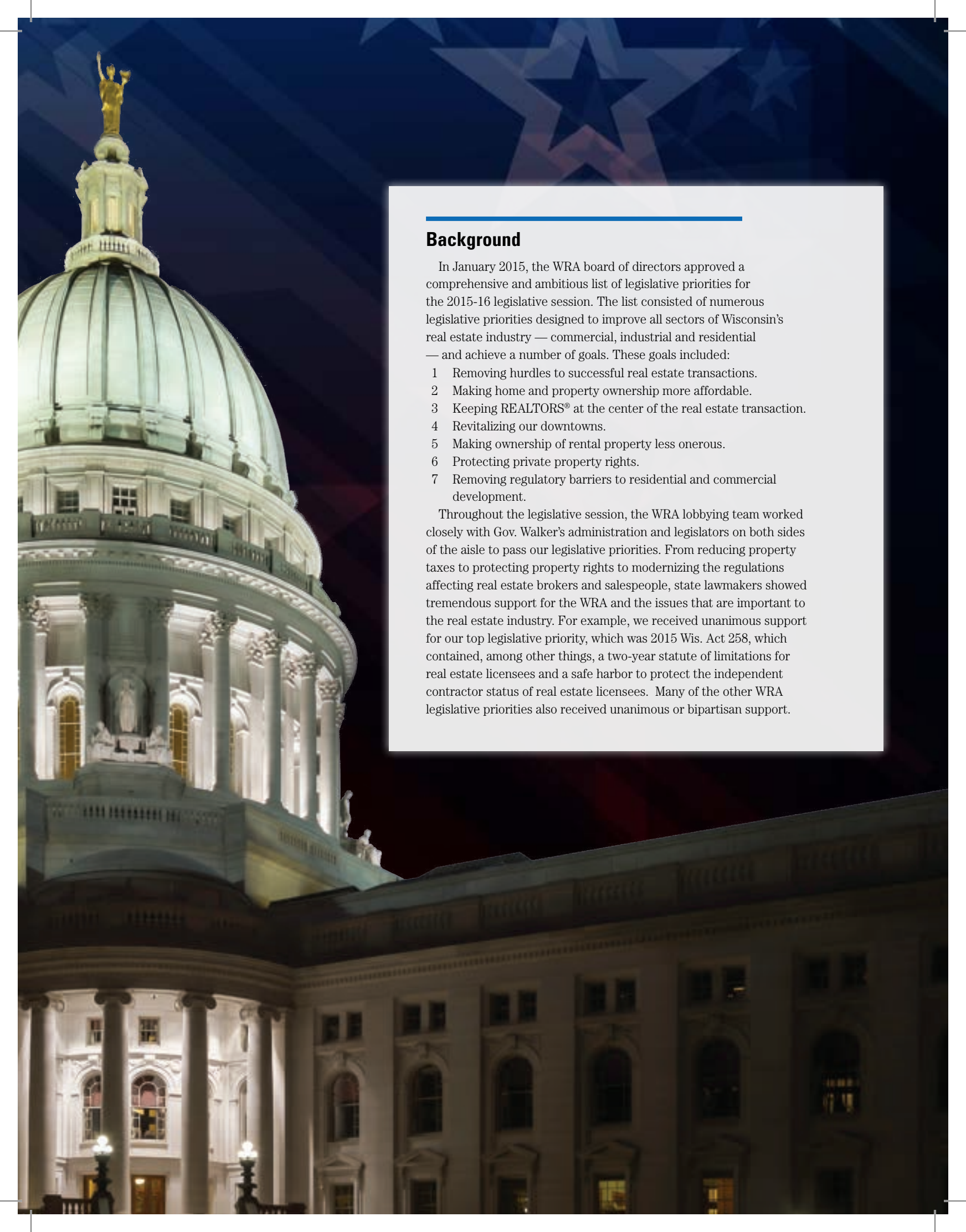


WISCONSIN REALTORS® ASSOCIATION

Session Wrap-up: 49 Legislative Priorities Passed Into Law

On March 15, 2015, the Wisconsin Legislature adjourned and ended the 2015-16 legislative session, which was one of the WRA's best legislative sessions ever. In the end, the WRA passed 49 top legislative priorities on a variety of issues affecting all sectors of the real estate industry. Our success was made possible by your participation in our advocacy efforts such as REALTOR® and Government Day, responding to calls to action and your contributions to RPAC, the REALTORS® Political Action Committee. Your participation makes a real difference. Thank you!





Background

In January 2015, the WRA board of directors approved a comprehensive and ambitious list of legislative priorities for the 2015-16 legislative session. The list consisted of numerous legislative priorities designed to improve all sectors of Wisconsin's real estate industry — commercial, industrial and residential — and achieve a number of goals. These goals included:

- 1 Removing hurdles to successful real estate transactions.
- 2 Making home and property ownership more affordable.
- 3 Keeping REALTORS® at the center of the real estate transaction.
- 4 Revitalizing our downtowns.
- 5 Making ownership of rental property less onerous.
- 6 Protecting private property rights.
- 7 Removing regulatory barriers to residential and commercial development.

Throughout the legislative session, the WRA lobbying team worked closely with Gov. Walker's administration and legislators on both sides of the aisle to pass our legislative priorities. From reducing property taxes to protecting property rights to modernizing the regulations affecting real estate brokers and salespeople, state lawmakers showed tremendous support for the WRA and the issues that are important to the real estate industry. For example, we received unanimous support for our top legislative priority, which was 2015 Wis. Act 258, which contained, among other things, a two-year statute of limitations for real estate licensees and a safe harbor to protect the independent contractor status of real estate licensees. Many of the other WRA legislative priorities also received unanimous or bipartisan support.

2016 LEGISLATIVE REALTOR® ★ REPORT ★



Removing hurdles to successful real estate transactions

- 1 **Time of sale requirements (2015 Wis. Act 55):** Prohibits local time of sale requirements that would limit or impede a property owner's right to transfer property.
- 2 **Time of sale loophole (2015 Wis. Act 176):** Closes a loophole in the time of sale law by expanding the time of sale restrictions to buyers and the time of occupancy.
- 3 **Right to alienate any interest in property (2015 Wis. 391):** Prohibits local governments from prohibiting or unreasonably restricting the sale or transfer of title to any interest in property.

Making homeownership and property ownership more affordable

- 1 **Property tax reduction (2015 Wis. Act 55):** Further reduces property tax bills in two ways:
 - a Continuing to allocate approximately \$200 million per year in state general purpose revenues to help fund technical colleges, thereby reducing property taxes by the same amount, which is a

\$131 reduction for the average homeowner over the biennium.

- a Modifying the school levy tax credit, resulting in an additional property tax reduction over the biennium, which is a \$3 reduction for the average homeowner over the biennium.

2 **Property tax freeze/levy limits (2015 Wis. Act 55):**

Renews the cap placed on local levies for the next two years but allows increases under limited circumstances.

Keeping REALTORS® at the center of the real estate transaction

- 1 **Real estate licensee liability protection (2015 Wis. Act 258):** Provides liability protection for real estate firms and agents by creating a two-year statute of limitations from closing.
- 2 **Independent contractor status (2015 Wis. Act 258):** Clarifies what real estate firms must do to classify real estate agents as independent contractors as opposed to employees.
- 3 **Workers' compensation (2015 Wis. Act 258):** Eliminates the requirement for firms to pay workers' compensation insurance for agents, but provides firms with the ability to offer workers' compensation insurance if they wish without forfeiting the independent contractor relationship.
- 4 **Unauthorized practice of law (2015 Wis. Act 258):** Codifies the *Dinger* case and Wisconsin Supreme Court rules that authorize real estate licensees to complete state-approved forms.
- 5 **Dual agency law clarification (2015 Wis. Act 258):** Clarifies Wisconsin law to state that when two agents for the same brokerage firm are representing different parties in a transaction — one representing the seller, and one representing the buyer — each agent owes certain duties such as loyalty, negotiation, information and advice, to their



own client — not both parties. A case in California is a prime example of dual agency.

- 6 **Business entities (2015 Wis. Act 258):** Clarifies brokerage practice under and as a licensed business entity.
- 7 **Out-of-state licensees (2015 Wis. Act 47):** Makes a technical change to the statutes to allow the WB cooperative form to be created without going through administrative rule changes.
- 8 **Real estate/appraiser license renewal and CE requirements (2015 Wis. Act 55):** Maintains the consistency between the two-year licensing and CE requirements for real estate licensees and appraisers.



Revitalizing Wisconsin's downtowns

- 1 **Milwaukee Bucks stadium funding (2015 Wis. Act 60):** Provides partial state funding for a new Milwaukee Bucks arena, which will generate positive tax revenues for the state and serve as a catalyst for economic development in Milwaukee.
- 2 **Historic rehabilitation tax credit (2015 Wis. Act 55):** Maintains the 20 percent state tax credit with no overall caps or per-project caps for historic rehabilitation projects, which have generated approximately 2,800 jobs and \$353 million in economic development activity since the tax credit was increased from 5 percent to 20 percent in 2013.

Making ownership of rental property less onerous

- 1 **One-strike evictions (2015 Wis. Act 176):** Allows landlords to terminate a tenancy for criminal or drug-related activity for "market rate" rental housing, similar to Section 8 housing.



- 2 **Right to cure (2015 Wis. Act 176):** Allows landlords to opt for a five-day right to cure instead of just a 14-day eviction or nothing on month-to-month leases.
- 3 **Squatters (2015 Wis. Act 176):** Builds a framework for quick evictions and disposal of personal property left behind.
- 4 **Technical fixes for new towing rules (2015 Wis. Act 176):** Modifies rules as they relate to stolen vehicles and a towing fee schedule to apply only when no ticket is issued.
- 5 **Municipal utilities (2015 Wis. Act 176):** Clarifies that municipal utilities have unilateral authority — and authorization from the PSC is not required — to not offer deferred payment agreements.
- 6 **Landlord registration/fees (2015 Wis. Act 176):** Authorizes municipalities to inspect properties based only on a complaint from any person, as part of a program of regularly scheduled inspections, or as required under state or federal law, and charge a uniform fee.

Protecting private property rights

- 1 **Ambiguities in local ordinances (2015 Wis. Act 391):** Requires courts to interpret any ambiguities in local ordinances in favor of the free use of property.
- 2 **Standard of review (2015 Wis. Act 391):** Requires courts to give no deference to state agency decisions of law that restrict a property owner's free use of property.
- 3 **Supermajority vote to downzone property (2015 Wis. Act 391):** Requires a supermajority vote by local units of government to downzone a property.
- 4 **Ordinary high water mark determinations (2015 Wis. Act 391):** Allows property owners to rely on surveys and plats to determine OHWM for purposes of measuring building setbacks.

2016 LEGISLATIVE REALTOR® ★ REPORT ★



- 5 **Conditional use permits (2015 Wis. Act 391):** Clarifies that a conditional use permit is not required to be consistent with a local comprehensive plan.
- 6 **Nonconforming structures (2015 Wis. Act 55):** Allows property owners to repair, maintain, improve and reconstruct nonconforming principal and accessory structures in shoreland areas.
- 7 **Substandard shoreland lots (2015 Wis. Act 55):** Protects the ability of property owners to use and develop nonconforming lots in shoreland areas.
- 8 **Changes to lake water levels (2015 Wis. Act 387):** Requires the DNR to consider the impact on businesses and property values prior to adjusting lake water levels controlled by a dam.
- 9 **Property rights impact statement (2015 Wis. Act 391):** Requires administrative rules to provide an analysis of the ways and the extent to which the proposed rule would place any limitations on the free use of property, including the alternatives to the proposed rule that would minimize any such limitations.
- 10 **Adverse possession limitations (2015 Wis. Act 200):** Allows property owners to prevent others from acquiring title to their property through adverse possession by establishing a new procedure whereby a property owner may interrupt and restart the clock on an adverse possession claim by filing an affidavit of interruption with the register of deeds and notifying potential adverse possessors.
- 11 **Adverse possession by government (2015 Wis. Act 219):** Clarifies that legal title to government-owned property cannot

be acquired by private citizens through adverse possession and that legal title to private property cannot be acquired by government through adverse possession.

- 12 **ASNRI waters (2015 Wis. Act 387):** Provides greater certainty for property owners regarding Chapter 30 regulations, which regulate activities in/near navigable waterways by limiting the scope of waters designated as “Areas of Special Natural Resource Interest” to include only specific portions of waters that contain critical habitats for endangered or threatened species.
- 13 **Boathouses (2015 Wis. Act 387):** Restricts the ability of counties to prohibit property owners from using boathouse roofs as decks and clarifies that boathouses do not need to be used continuously for the storage of watercraft.
- 14 **Direct notice for zoning changes (2015 Wis. Act 391):** Requires local governments to provide annual notice informing property owners how they can receive direct notice of any proposed change to zoning regulations that would change the allowable use or density of a property.
- 15 **Landmark ordinance/historic designation (2015 Wis. Act 176):** Allows property owners to appeal historic landmark designations to local elected governing bodies.
- 16 **Substitution of ALJs (2015 Wis. Act 391):** Allows a property owner to request one substitution of an administrative law judge overseeing a contested case hearing involving a contract, permit or other approval issued or denied by the DNR or the DATCP.



Removing regulatory barriers to residential and commercial development

- 1 **Wetlands (2015 Wis. Act 387):** Makes wetland mitigation more viable by limiting the practicable alternatives analysis to alternatives that exist on-site for smaller projects and for wetland disturbances up to 2 acres.
- 2 **Development moratoria for counties (2015 Wis. Act 391):** Prohibits counties from enacting development moratoria.
- 3 **Municipal liquor licenses (2015 Wis. Act 176):** Modifies the quotas on Class B liquor licenses by creating an exception for large economic development districts — \$20 million increase in property tax base — and allowing for regional sharing of licenses with neighboring communities within 2 miles.
- 4 **Nonpoint water pollution (2015 Wis. Act 387):** Allows stormwater management ponds to be placed in waterways to achieve performance standards for nonpoint water pollution. Also requires the DNR to give credit for any pollutant reduction achieved by the placement of such ponds.
- 5 **Stormwater discharges into wetlands (2015 Wis. Act 387):** Allows for stormwater discharges that are the result of maintenance of a roadside ditch or stormwater detention basin into a wetland without a permit.
- 6 **TIF technical changes (2015 Wis. Act 256):** Makes a number of technical changes to Wisconsin's tax increment



financing (TIF) law, including specifying that the requirement to maintain industrial zoning applies only to industrial tax increment districts (TIDs), and not to mixed-use TIDs, and excluding the value of any TID increments from the levy limits upon closure of a TID.

- 7 **Joint review boards (JRB) (2015 Wis. Act 257):** Makes a joint review board (JRB) a permanent standing committee as long as the TID is in existence, and requires municipalities to file more detailed performance reports with a JRB and the DOR.
- 8 **Change in TID cash flows (2015 Wis. Act 254):** If legislation or administrative action changes TID cash flow, municipalities are allowed to amend a TID's boundaries at any time, request redetermination of a TID's base value, or request an extension of a TID's life.
- 9 **Vacant land test (2015 Wis. Act 255):** Eliminates the 25 percent vacant land test, which prohibits inclusion of an area of vacant land comprising more than 25 percent of the total area of the TID land in a blight or rehab district.
- 10 **Artificial water bodies (2015 Wis. Act 387):** Exempts from Chapter 30 regulations artificial water bodies that are not hydrologically connected to a natural navigable waterway. Also allows dredging without a permit in artificial water bodies that do not connect to a navigable waterway.
- 11 **Private septic systems (2015 Wis. Act 55):** Maintains DSPS regulatory authority over private on-site wastewater treatment systems rather than transferring such authority to the DNR.
- 12 **Authority of towns to regulate in shoreland areas (2015 Wis. Act 41):** Clarifies that towns may have general zoning authority within shoreland areas if the county does not have general zoning authority.





Wisconsin REALTORS® Association
4801 Forest Run Road, Suite 201
Madison, WI 53704

2016 LEGISLATIVE REALTOR® ★ REPORT ★

Making a Difference with **RPAC**

Improving Wisconsin's quality of life one home at a time.



Dan Lawler
2016 RPAC Chair

"Decisions are made in Washington and Madison that affect the real estate industry and your bottom line on issues such as mortgage interest, zoning, capital gains, legal liability and more. That's why you need the REALTORS® Political Action Committee (RPAC) as much as they need you. The National Association of REALTORS®, the WRA, and your local board of REALTORS® together as a team have stopped proposals that would have made it harder for you to conduct business. With your help and support, we have secured legislative victories that have saved REALTORS® and property owners millions of dollars. These victories were possible because RPAC supports candidates for public office who support our issues. Please invest in RPAC. It's a wise investment in your business."

We hope you find the 2016 Legislative Report informative.