


# Position Statements

Washington REALTORS®



**State Taxes | Infrastructure & Transportation | Local Government | Economic Development | Federal Tax & Budget Issues | Housing | Environment | Land Use | Consumer Protection | Business Issues**



*Washington REALTORS® advocate  
for REALTORS® and their clients and  
provides services to help members prosper.*

# Foreword

Washington REALTORS® is one of the largest business trade associations in Washington State. Our members are in every community and interact with hundreds of thousands of property owners throughout the State annually.

The Association is respected in Olympia for our policy positions on issues that affect the real estate transaction, the cost and supply of housing, and land development. Though there are a myriad of policies that stakeholders and the public weigh in on every year, the Association's positions are limited to those that most directly impact our industry and property owners.

This document, a compilation of those positions, is the result of hours of work by our three Special Committees during 2011. The Consumer and Business Affairs, Tax and Fiscal, and Land Use and Environment Special Committees are composed of REALTORS® who met several times during the interim to update these position statements. Recommendations from those Special Committees were forwarded for review to our Legislative Steering Committee and then on to the Board of Directors for approval.

State legislators, agencies and executive leaders need, and often request, the opinion of the Washington REALTORS® because they understand that our industry and the home and property owners we advise are critically linked to the economic destiny and the quality of life of our state. These position statements provide a basic guide on where we stand when issues arise regarding real estate.

Members of the Association are actively involved in the legislative and political process. In Olympia, our staff, our leadership and our government affairs committees are committed to defending and protecting our industry and the clients we serve.

Washington REALTORS® works to maintain your trust and stands ready to analyze and present REALTOR® positions and values and provide reliable information on important issues that impact the real estate industry. With these positions, we remain vigilant to prevent legislation that could harm our members and to support legislation that can help.

*December 2012*

# TABLE OF CONTENTS

## **Tax and Fiscal Issues**

I. STATE TAXES.....	1
A. State Real Estate Excise Tax (REET).....	2
B. State Business & Occupation Tax (B&O Tax).....	2
C. Sales Tax on Real Estate Brokerage Services.....	2
D. State Property Taxes.....	3
E. State Income Tax.....	4
F. The State Budget.....	4
G. Unfunded Mandates.....	4
II. STATE FUNDING OF INFRASTRUCTURE & TRANSPORTATION.....	5
A. Basic Infrastructure Funding.....	5
B. State Transportation Funding .....	5
C. Tax Increment Financing.....	6
III. LOCAL GOVERNMENT TAX & FISCAL ISSUES.....	6
A. Voter Approval for Local Revenues.....	6
B. Local Real Estate Excise Tax (REET).....	7
C. Local Business & Occupation Tax (B&O Tax).....	7
D. Local Property Taxes.....	7
E. Impact Fees.....	8
F. Local Business Taxes and Fees.....	9
G. Local Infrastructure and Transportation.....	9
H. Parks, Recreation, and Open Space.....	10
IV. ECONOMIC DEVELOPMENT & ECONOMIC IMPACTS OF REAL ESTATE.....	10
V. FEDERAL TAX & BUDGET ISSUES.....	11
A. Federal Taxation and Tax Reform.....	11
B. Federal Mortgage Interest Deduction.....	11
C. Federal Capital Gains Rate and Primary Residence Exclusion.....	12

## **Housing, Land Use, and Environment**

I. HOUSING .....	13
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A. Home Ownership.....	14
B. Housing Affordability.....	14
C. Supply and Demand of Housing.....	14
D. Housing Finance Programs.....	14
II. LAND USE.....	14
A. Local Control.....	15
B. Commercial and Industrial Real Estate.....	15
C. Growth Management.....	16
D. Regulatory Reform.....	17
E. Concurrency.....	18
F. Development Permitting Process.....	18
III. ENVIRONMENT.....	19
A. Climate Change.....	19
B. Endangered/Threatened Species.....	21
C. Environment: State and Local.....	22
D. Water Resources .....	23
E. On-Site Septic Systems.....	24
F. Storm Water Regulations.....	24
G. Hydraulic Permits.....	24

## **Consumer & Business Issues**

I. CONSUMER PROTECTION.....	25
A. Landlord/Tenant Relations.....	25
B. Rental Housing and Rent Control.....	25
C. Fair Housing.....	26
D. Seller Property Condition Disclosure.....	26
E. Home Inspections.....	26
F. Lead-Based Paint and Contaminated Properties .....	26
II. BUSINESS ISSUES.....	27
A. License Law.....	27
B. Administrative Regulatory Reform.....	27
C. Point of Sale Requirements.....	27

# Position Statements

Washington REALTORS®



## **Tax and Fiscal Issues**

### **I. STATE TAXES**

REALTORS® understand both the value of our state's schools, roads, parks, social services, and many other programs, and that tax revenues are necessary to pay for them. REALTORS® believe that the State should collect only as much revenue as is needed, and that government should operate and fund only those programs and services that the private sector cannot provide. The State should continually seek to be cost effective and efficient in the delivery of its programs and services. REALTORS® support efforts to contract out certain government functions and to identify government programs that can be more cost effectively performed by the private sector.

REALTORS® believe that when new revenues are considered, the revenue source should have a logical nexus to the need for and use of the funds. REALTORS® believe that government should specify which projects or services would be provided by specific tax revenues to accomplish targeted purposes for a specified period of time. Once the specified time period has expired, the tax and projects should sunset.

REALTORS® may support new taxes for new infrastructure, provided such new funds do not supplant existing revenues normally budgeted for capital projects, and that such taxes are project-specific and for a specific period of time. REALTORS® may consider supporting new taxes for maintenance and operations, provided that such new funds do not supplant existing revenues directed toward such maintenance nor decrease the level of funding from existing sources. Also, such new funding must provide a measurable difference in the level of service.

## **A. State Real Estate Excise Tax (REET)**

The state Legislature has authorized a state real estate excise tax (REET) of 1.28% on the sale price of every residential and commercial real estate transaction. Washington's REET is the second highest in the nation and negatively affects housing affordability, workforce mobility, and home ownership.

The REET increases the cost of housing for buyers and is taken directly from the equity of sellers. Move-up buyers lose valuable equity needed to reinvest in a newer or larger home affecting the decision and/or ability to change housing status. A decision not to move up results in reduced inventory of older, smaller, more affordable homes available for first-time buyers. Reduced inventory drives up price of the existing housing stock causing less efficient use of the housing stock. The REET is regressive, placing a higher burden on people with lower incomes and disproportionately burdening those who move frequently. Because only 5% of existing homes are sold each year, the REET places a heavy burden on the small portion of the population who pay the tax, even though the proceeds of the REET benefit society at large. In addition, the REET is an unreliable source of revenue as it fluctuates with the cyclical housing market, and thus is an inappropriate source of funding for general operating fund uses.

REALTORS® support the reduction or elimination of the REET and will oppose any increase in the current rate of the REET.

## **B. State Business & Occupation Tax (B&O Tax)**

The base business and occupation tax (B&O tax) rate for real estate brokerage services is 1.5% with an additional .3% surcharge in place through 2014, for a total tax rate of 1.8%. Along with other service businesses, real estate currently pays the highest B&O tax rate in the state. However, because of the structure of the real estate industry, individual REALTORS® do not benefit from the state's small business B&O tax credit that is available to many other service businesses. The B&O tax is extremely regressive and unfair because it is a tax that applies only to gross receipts, without regard to the amount of business expenses or profit. The B&O tax is a significant disincentive for new businesses to locate in Washington State, and for existing businesses to expand operations.

REALTORS® believe the current B&O tax model in Washington State should be repealed and replaced with a system that is fair to businesses by reflecting expenses and profit, not a tax on gross receipts. REALTORS® will support measures that will eliminate or reduce the B&O tax burden on business, oppose further increases in the B&O tax rate on real estate and other professional services, and will oppose any extension in the B&O surcharge scheduled to end in 2014.

## **C. Sales Tax on Real Estate Brokerage Services**

Washington's tax code relies heavily on the 6.5% general state sales tax to fund state government. Many are not subject to sales

tax, including sales of food and groceries, gas, and professional services like real estate, accounting, and legal services. The exemption from sales tax for certain services is based in part on the fact that service businesses like real estate already pay the highest B&O tax rate in the state, and that Washington State has one of highest B&O tax rates and real estate excise tax rates in the country. In recent years, the state Legislature has considered whether to apply sales tax to certain service activities like real estate.

Applying the sales tax to real estate services will reduce the demand for housing by effectively increasing the cost of purchasing a home. The sales tax will be passed on to homebuyers and sellers, increasing the costs of housing. A sales tax on real estate services will also increase closing costs on both residential and commercial property, will increase the costs of operating a real estate business, and will increase the construction costs for new homes.

REALTORS® oppose applying sales tax to real estate services and other professional services.

## **D. State Property Taxes**

Property tax consists of state and local portions. The state portion is the state's fourth largest source of revenue and is dedicated to support of public schools. While the state Constitution requires that property tax must apply uniformly to all taxpayers, the legislature may exempt or defer property tax obligations on certain types of property. However, any property tax exemption reduces the overall base of taxable property, and thus causes a tax



shift. The state Constitution also includes a 1% property tax limit (\$10 per \$1,000 of assessed value), which may only be exceeded by approval of 60% of the taxing district's voters. Of this \$10 per \$1,000 rate, up to \$3.60 is provided to the state, while the remainder is available for local governments.

The state Constitution stipulates that property tax is to be levied against the "true and fair" value of property. Property assessment, or valuation, is done by the county assessor, and all taxable property must be assessed at 100 percent of its true and fair value unless the law specifically provides otherwise, such as with low-income retired persons.

In 2001, voters passed Initiative 747, which restricted taxing districts to a property tax increase of the lesser of inflation or 1%. This limit is on the taxes collected and not on the growing value of the property. Thus, under Initiative 747, a taxing district could collect only 1% more than the previous year's cumulative total of property taxes assessed within its jurisdiction.



REALTORS® support the existing limits on property tax increases, and the ability of voters to increase property tax revenue beyond the 1% limit through a 60% vote. REALTORS® recognize that the 1% limit may not reflect the increasing costs of government services driven by population growth, inflation, and citizen demand for more services. REALTORS® support existing property tax exemptions and deferrals for senior and low-income citizens and open space, but oppose the creation of additional exemptions that shift property tax burdens from one group to another.

REALTORS® believe that using property tax to fund government projects and services is preferable to using the real estate excise tax (REET), because property tax applies uniformly to all taxpayers within a jurisdiction rather than singling out the seller's equity as a source of tax revenue. Further, property tax provides a stable source of revenue compared with the volatility of REET.

## **E. State Income Tax**

Washington State's general fund income relies primarily on state sales tax, property tax, and the B&O tax. Washington State does not have a state income tax. In 2010, Washington voters rejected (65% to 35%) a statewide initiative that would have established a statutory state income tax on individuals with income above \$200,000 per year or on couples with income above \$400,000 per year. REALTORS® oppose the adoption of a state income tax.

## **F. The State Budget**

REALTORS® support a state operating budget with revenue and spending limits based on population growth and inflation. Having these limits in place enables the state to adopt sustainable budgets and analyze the fiscal impacts of creating new programs or services at the state level. State budgeting should also seek to include tax relief that creates economic incentives for businesses in Washington State.

REALTORS® priorities for the capital budget include funding for basic infrastructure, economic development, school construction, and housing. REALTOR® priorities for the transportation budget include increased funding for local transportation infrastructure, reduced traffic congestion, and improved freight mobility.

## **G. Unfunded Mandates**

Over the last few decades, the state and federal government and citizen initiatives have created new laws and programs without identifying how these programs will be funded. These unfunded mandates divert the resources of state and local governments away from the basic programs and services. In addition, unfunded mandates impose burdens on businesses and citizens. REALTORS® oppose creating new federal, state, or local mandates without identifying the specific funding source for implementation.





## **II. STATE FUNDING OF INFRASTRUCTURE & TRANSPORTATION**

### **A. Basic Infrastructure Funding**

Investment in basic infrastructure is necessary for state and local governments to provide the roads, bridges, water, sewer, and parks that support our state's economic development and quality of life. While the State has established new requirements for local governments such as the Growth Management Act, it has not kept pace with providing the infrastructure funding necessary for local governments to accommodate growth.

REALTORS® support full funding for the Public Works Trust Fund, which is a revolving loan fund at the state level that relies on a portion of the state real estate excise tax, utility tax, and other sources to fund basic infrastructure. In addition, REALTORS® support creating new infrastructure funding mechanisms, including dedicating growth-related revenues such as the real estate excise tax, construction sales tax, and sales tax attributable to new development to fund basic infrastructure. Such growth-related revenues are one-time revenues, and revenues from these sources that exceed a certain fiscal growth factor would allow the state to rely on a predictable level of revenue for general fund use while dedicating revenue above this level to infrastructure needs.

### **B. State Transportation Funding**

State funding of transportation is a critical component of economic development and land use planning in Washington State. Gas tax revenue, the primary source of transportation funding, will continue to decline in future years. Because of this, additional revenue will be necessary for the State to maintain or increase levels of transportation funding.

REALTORS® will consider supporting new funding proposals such as one-time funding packages, tolling, user fees, and gas tax.

Mass transit will also provide an increasingly important source of transportation in future years. REALTORS® support mass transit projects that are necessary and cost-effective and that reflect demand for transit services. Mass transit projects should be selected, sited, and developed to be consistent with the overall land use plan so that the transit projects provide mobility between housing and employment centers. REALTORS® believe that while mass transit is necessary and cost-effective in some parts of Washington State, it is not a solution to transportation issues in all parts of the state.

### **C. Tax Increment Financing**

Washington is one of the few states that does not allow Tax Increment Financing (“TIF”). TIF is a financing mechanism under which bond debt incurred for public investment in infrastructure and other capital facilities is secured by and repaid from the increase in tax revenue anticipated by the private development spurred by those public investments. TIF has been used in other parts of the country to help fund infrastructure projects critical to economic development and redevelopment of a variety of areas. However, Washington’s Constitution includes a “uniformity clause” requiring that all taxes must be uniform upon the same class of property within the jurisdiction imposing the tax. This prevents Washington State from using TIF at the local level to fund infrastructure and economic development. Other states have also used a variant of TIF called “synthetic TIF,” through which a private developer agrees

to finance infrastructure improvements, and the local government agrees, contingent upon sufficient increase in tax values over time, to acquire completed facilities or provide the developer with an economic development grant to cover project costs.

REALTORS® support state legislation and amendment of our state Constitution to allow TIF. A majority of other states allow TIF, and it has been successfully used to fund infrastructure and encourage economic development in a variety of settings.

## **III. LOCAL GOVERNMENT TAX & FISCAL ISSUES**

While adopted at the state level, local governments have primary responsibility for implementing the laws and programs that impact real estate, housing, and the quality of life in our communities. These laws include those that regulate housing and land development, provide the infrastructure necessary to accommodate growth, and generate revenue at the local level to pay for capital and operating expenses of local governments. REALTORS® believe that when new revenues are considered, the revenue source should have a logical nexus to the need for and use of the funds.

### **A. Voter Approval for Local Revenues**

REALTORS® believe that local revenue options should be subject to local voter approval. This allows for individual local governments to choose their own spending priorities and revenue tools to reflect citizen expectations. REALTORS® will neither

categorically support nor oppose local government proposals for additional local revenue. Rather, REALTORS® will be active participants in the local debate about when additional revenue is needed, for what purposes, and how local priorities should be identified and implemented.

## **B. Local Real Estate Excise Tax (REET)**

In addition to the 1.28% state real estate excise tax (REET), the State has authorized cities and counties to impose two additional .25% local REETs. The fact that cities and counties can impose a local REET is one of reasons why Washington's total REET is one of the highest in the nation.

The first increment of local REET (REET 1) can be up to .25% and can be used for 16 different types of capital projects. The second .25% REET (REET 2) can be used for a shorter list of 8 basic infrastructure project types. REET 2 is available only to those cities and counties planning under the Growth Management Act. For opt-in GMA jurisdictions, addition of REET 2 requires local voter approval. From 2011 until 2016, local governments may use the greater of \$100,000 or 35%, up to a maximum of \$1,000,000 per year of local REET 1 and REET 2 for maintenance and operations of existing capital facilities such as roads, sidewalks, buildings, and parks.

Like the state REET, the imposition of a real estate transfer tax takes money directly from the seller's equity and is a major disincentive for home sales. From a local budgeting perspective, the REET is a volatile funding source that is unreliable for use in local operating budgets. REALTORS® support use of the local REET to construct necessary

local basic infrastructure, and will oppose increases in the existing local REET rate and the extension of expanded local REET uses past 2016.

## **C. Local Business & Occupation Tax (B&O Tax)**

State law authorizes cities to impose a business and occupation tax (B&O tax) on certain businesses. Like the state B&O tax, the local B&O tax is a regressive tax because it is based on a business's gross income without regard to expenses or profit. Approximately 40 cities in Washington State have enacted local B&O taxes, and this tax has proven to be a significant disincentive for businesses to locate in those cities.

REALTORS® oppose the adoption of or increase in B&O tax rates on real estate firms. For those cities that impose B&O taxes, REALTORS® believe that the local tax ordinance should provide a threshold to exempt a certain level of business income from B&O tax. This threshold should be established to protect small businesses. In addition, cities with local B&O tax must comply with the state's municipal B&O tax apportionment law to avoid double taxation of businesses and should develop streamlined B&O tax reporting procedures to minimize the administrative and recordkeeping burdens on real estate firms.

## **D. Local Property Taxes.**

Property tax is the largest source of revenue for local governments. Local governments with property tax authority include hundreds of separate taxing districts, including counties, cities, fire districts, emergency medical districts, ports, libraries, and numerous other local taxing entities.



The state Constitution includes a 1% property tax limit (\$10 per \$1,000 of assessed value), which may only be exceeded by approval of 60% of the taxing district's voters. Of this \$10 per \$1,000 rate, up to \$3.60 is provided to the state, while the remaining \$6.40 is available for local taxing districts. Of this \$6.40, \$5.90 per \$1,000 is available for local taxing districts, and senior taxing districts (counties, cities, and roads) have first priority in levying this \$5.90. Any remainder is then allocated to junior taxing districts. An additional \$.50 per \$1,000 is available for six different local purposes: open space, emergency medical, affordable housing, metropolitan parks, criminal justice, and ferries. Like the state, local taxing districts are subject to a property tax increase of the lesser of inflation, or 1%. This limit is on the taxes collected and not on the growing value of the property. Thus, a local government taxing district could collect only 1% more than the previous year's cumulative total of property taxes assessed within its jurisdiction.

REALTORS® support the existing limits on property tax increases and the ability of voters to increase property tax revenue beyond the 1% limit through a 60% vote. REALTORS® recognize that the 1% limit may not reflect the increasing costs of government services driven by population growth, inflation, and citizen demand for more services. REALTORS® support existing property tax exemptions and deferrals for senior and low-income citizens and open space, but oppose the creation of additional exemptions that shift property tax burdens from one group to another.

REALTORS® believe that using property tax to fund government projects and services is preferable to using the real estate excise tax (REET), because property tax applies uniformly to all taxpayers within a jurisdiction rather than singling out the seller's equity as a source of tax revenue. Further, property tax provides a stable source of revenue compared with the volatility of REET.



## E. Impact Fees

Impact fees are fees charged by local governments to developers to pay for the costs of providing new or improved public facilities. Impact fees are authorized for those jurisdictions planning under the Growth Management Act for public streets and roads, parks and recreation facilities, schools, and fire protection facilities. In addition, the State Environmental Policy Act authorizes payments to mitigate direct impacts of development, including those on public facilities. Impact fees must have a nexus with the demand on public facilities created by the new development, and the

amount of the fees may not exceed the development's proportionate share of the cost of the public facility.

REALTORS® believe that instead of relying on new or increased impact fees, local governments should seek to fund public facilities through broader funding sources. Public facilities benefit communities in general, and thus the funding sources should be broad as well. In addition, REALTORS® believe that impact fees unfairly target all new construction. REALTORS® support delaying payment of impact fees until the certificate of occupancy, rather than at the subdivision or building permit phase. Delaying the payment of these fees reduces the carrying costs of new development.

## **F. Local Business Taxes and Fees**

Washington's local governments are authorized to impose a variety of taxes and fees on businesses. Cities may impose a business and occupation tax (B&O tax) up to .2% of gross value of business activity. Business fees for revenue and regulatory purposes based on the number of employees, square feet, or standard flat rate fees, have no statutory limit. Businesses operating in multiple jurisdictions may be required to pay taxes and fees in each jurisdiction in which they do business.

In adopting local taxes and fees, REALTORS® support the following principles:

- Limit local business license fees to the amount necessary to meet administrative costs;
- Limit city license fee authority to collect fees only for administrative purposes, not as a revenue generating measure;
- Limit city license fee authority to collect business license fees only for the city in which the business is located;
- Set single, uniform tax classifications so businesses cannot be taxed on more than 100% of their income; and,
- Ensure municipal business taxes are collected only for revenues generated within the taxing jurisdiction.

## **G. Local Infrastructure and Transportation**

At the local level, infrastructure is a necessary investment in the growth of society, the economy and our quality of life. Infrastructure—roads, bridges, water and sewer systems, along with schools and parks—provides the essential foundation to a healthy community. Sufficient funding of infrastructure is a critical investment in our communities. Financing infrastructure projects encourages economic growth and expands the tax base through commercial and residential development.



REALTORS® support maintaining and increasing local funding for infrastructure development, both to encourage economic development and to ensure adequate supply of housing.

## **H. Parks, Recreation, and Open Space**

Providing parks, trails, and other recreational opportunities is an important component of comprehensive land use planning and maintaining quality of life in our communities. As new housing styles such as condominiums and townhouses become more prevalent, public recreational spaces become an important amenity for local governments to provide.

REALTORS® support the Washington Wildlife and Recreation Program (WWRP), which was established to provide funding for different categories for outdoor recreation, including parks, trails, and water access. In addition, WWRP funds habitat and farmland protection projects through voluntary land transfers, not by relying on more regulation. REALTORS® also support the implementation of local government authority under the Conservation Futures program. This program allows local governments to generate property tax funds dedicated to property acquisition to protect natural resources and recreational opportunities.

REALTORS® believe that local governments should acquire parks and recreational lands through a planning process that addresses long-term parks needs. Local governments' plans to acquire and develop parks and recreational facilities must also include provisions on how these facilities will be operated and maintained. To operate and maintain parks, REALTORS® encourage local governments to identify dedicated funding sources that are stable, and to work with adjacent jurisdictions to consider the formation of Metropolitan Parks Districts.

## **IV. ECONOMIC DEVELOPMENT & ECONOMIC IMPACTS OF REAL ESTATE**

REALTORS® believe that both state and local governments must focus on economic development to ensure prosperity now and into the future. Washington State must compete against other states, regions, and countries and so our state must implement economic development strategies that support our existing businesses and attract new businesses. The success of our overall business community and a strong real estate market go hand-in-hand. REALTORS® support continued economic development while also ensuring the protection of Washington's quality of life. Our state's quality of life is one of the main factors that results in our state continuing to attract new residents from other parts of the country.

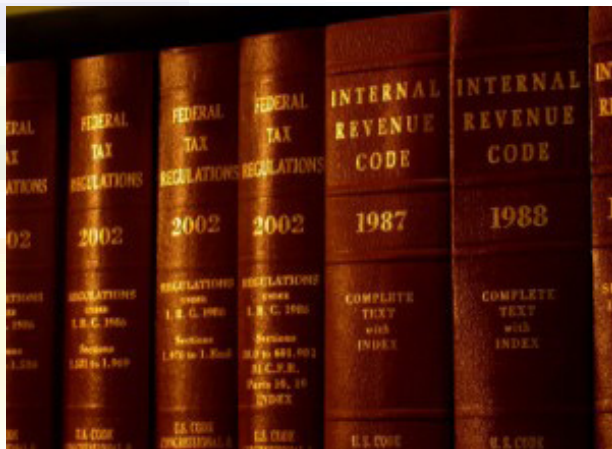
Economic development strategies must reflect the diverse economies that exist in Washington State. The Puget Sound area will continue to be a leader in high tech, aerospace, biotech, and international trade. In these areas, economic development strategies should focus on these economic clusters and work with those companies to ensure that employees have high quality and affordable housing choices. Rural parts of Washington State have

economies that include tourism, agriculture, and natural resources. For these parts of our state, economic development efforts must reflect the needs of those industries and the preferences of local residents who support them.

REALTORS® support state efforts to adopt economic development plans for the state and its different economic sectors, and support local governments including the economic development element in local GMA Comprehensive Plans.

## V. FEDERAL TAX & BUDGET ISSUES

REALTORS® position on federal tax and budget issues are developed and promoted by the National Association of REALTORS®. The position statements below are based on NAR's positions on key federal tax and budget issues of most importance to REALTORS®. Additional NAR positions on other federal issues can be reviewed at [www.realtor.org](http://www.realtor.org).



### A. Federal Taxation and Tax Reform

The federal tax code includes provisions that are critical to enable home ownership and

maintain the importance of real estate in the nation's economy, including the mortgage interest deduction and the primary residence capital gains exclusion. Any tax revisions enacted by Congress should continue to encourage savings, investment, and home ownership.

REALTORS® do not embrace a single tax reform model such as a flat tax or a national sales tax. Rather, REALTORS® acknowledge the complexity of the current tax system and seek to assure that tax reforms support the goals of home ownership and freedom to buy, maintain and sell real estate. REALTORS® emphasize that the home ownership tax provisions of the current federal tax code are among the most widely used by homeowners and small businesses. In addition, REALTORS® seek fairness in the tax code for self-employed persons.

### B. Federal Mortgage Interest Deduction

Under the current federal tax code, individuals may deduct mortgage interest on mortgage debt of up to \$1 million for a principal residence and one additional residence. In 2010, a bipartisan deficit-reduction commission released its final plan for reducing the national deficit, which included suggestions to reduce the mortgage interest deduction. Now, Congress is currently considering proposals to eliminate or greatly reduce this tax deduction.

REALTORS® oppose any change in the mortgage interest deduction because it is a successful tool that facilitates home ownership. First-time homeowners frequently cite the home mortgage interest deduction as one of the primary reasons for buying a home. Any reduction in the

mortgage interest deduction would reduce the number of both first-time homeowners and move-up buyers, who in buying larger homes make homes available for other families. This would ultimately have negative impacts on the federal, state, and national economies, and tax revenue as the economic benefits of housing would be greatly reduced.

### **C. Federal Capital Gains Rate and Primary Residence Exclusion**

Long-term capital gains, which apply to assets held for more than one year, are taxed at a lower rate than short-terms, which are taxed at the taxpayer's ordinary income rate. In addition, an individual can exclude up to \$250,000 (\$500,000 for a married couple filing jointly) of capital gains on the sale of real property if the owner used it as primary residence for two of the five years before the date of sale. Capital gains on certain types of investment property can be totally avoided by using 1031 exchange in which the proceeds of a sale are used to buy "like kind" property within a certain period of time after the first sale. These provisions make the capital gains part of the tax code of critical importance to both homeowners and real estate investors. In 2010, Congress extended prior temporary reductions in the capital gains rate so that capital gains will be taxed at varying rate before and after 2012, but in no case at rate higher than ordinary income.

REALTORS® support these lower capital gains rates, the Section 1031 exchange provisions, and the capital gains primary residence exclusion. These provisions of the tax code encourage savings and investment in long-term assets like real estate and are necessary to protect both homeowners and investors from being taxed on the inflationary increase on long-term assets. The capital gains exclusion for primary residences is a necessary tool to enable current homeowners to sell property without adverse tax consequences and become move-up buyers, which in turn frees up housing supply for first-time homebuyers.





## **Housing, Land Use, and Environment**

### **I. HOUSING**

An adequate supply of housing for all income levels is absolutely necessary for balanced and healthy growth of the state and its individual communities. Available and suitably located housing is critical to workforce recruitment and performance. The area's workers must be able to afford a place to live, while their employers need to attract and maintain a workforce with salaries that allow their companies to stay competitive in the global market. When fewer people can afford housing, it becomes increasingly difficult for companies to attract and retain a qualified workforce. Our ability to maintain a healthy economy with family-wage jobs requires a sufficient supply of housing that is affordable to workers.

The current inadequate supply of housing relative to demand, places the future economic health and vitality of Washington at significant risk.

## **A. Home Ownership**

Homeowners have a stake in their communities. The value of their property gives them every incentive to stay abreast of local activities and government actions. Homeowners pay property taxes, providing a major source of revenue for government. Homeowners are more likely to participate in community, political and charitable causes. Housing at affordable prices makes our communities attractive to businesses that want to relocate in our state. Housing is a major driver of the economy, representing the largest expenditure that consumers make.

All persons have a right to own real property and to exercise and enjoy the benefits of ownership without undue encroachment or intrusion by government, groups or individuals.

## **B. Housing Affordability**

Housing is affordable when people who work in the community can acquire decent, safe housing in that community without undue financial burden, and when home ownership is an achievable aspiration for a broad range of households. The lack of housing supply can drive housing prices out of the reach of too many families hoping to buy their first home.

Growing public restrictions and requirements on development, coupled with the decreasing financial resources of many communities for

making needed infrastructure improvements, have added to housing costs. Production and rehabilitation of housing continue to be more difficult, more time consuming, and therefore, more expensive.

## **C. Supply and Demand of Housing**

The price of housing, like that of any other economic good, results from interplay between supply and demand. An increase in demand for housing bids up the prices of currently available homes. Land use and growth controls have distorted this natural economic process with regulatory barriers that delay new housing construction and raise development and construction expenses. Lack of sufficient housing choices for areas with growing populations and limited land capacity during times of strong job growth creates a higher demand for more housing once local stocks are absorbed by the population; that forces prices of a limited supply of available homes to rise.

REALTORS® believe that changes to the Growth Management Act and local community comprehensive plans are necessary to ensure adequate housing choices for all income levels in local communities. At a minimum, these changes must include:

Increasing the densities of the urban growth areas: Increasing the amount of land capacity available for development; and, ensuring county and city compliance with the Growth Management Act's housing goals and local community comprehensive plans' housing requirements. These measures should include both enforcement and incentive provisions.



## D. Housing Finance Programs

REALTORS® support efforts to stimulate private development of affordable housing through tax incentives and exemptions. Assistance to first-time home buyers will open up rental units the new homeowners just vacated. Down payment and closing costs are often the major barrier to home ownership. Home ownership assistance is an effective economic development and job creation tool.

Credits and incentives applied to the business and occupation tax (B&O tax), sales tax and real estate excise tax may be an effective way of directing private resources into affordable housing and making housing accessible to low-income households. While REALTORS® support affordable housing efforts to provide financial and in-kind assistance, we recognize that government cannot provide enough assistance to solve the affordability gap that confronts our state's families.

The only way to close the affordability gap is to increase the supply of housing and reduce government-imposed barriers to affordable housing. These are the most important actions to address the housing affordability crisis. REALTORS® prefer the use of market driven and incentive programs over mandated programs to address affordability issues.

## II. LAND USE

### A. Local Control

REALTORS® believe that local governments are the only proper decision-makers for local land use matters. Accordingly, great deference should be given to land use decisions made by local governments.

## B. Commercial and Industrial Real Estate

While most real estate transactions involve residential properties, the commercial and industrial real estate sector is an important part of Washington's real estate industry. In addition, commercial and industrial real estate development, leasing, and sales are critical to the health of Washington's economy—from Main Street to our state's largest corporations.



REALTORS® believe that state and local governments must recognize the unique needs of the commercial and industrial real estate sectors in areas like seller disclosure, financing, and land use planning.

## C. Growth Management

REALTORS® are committed to pursuing reasonable and market-driven growth strategies that will meet the state's housing and job needs, help revitalize the state's cities and suburbs, build attractive and livable neighborhoods and communities, and allow for continued economic prosperity.

REALTORS® support planning for growth that allows for a wide range of housing types to suit the needs and income levels of a community's diverse population. REALTORS® support ways to manage growth by permitting more housing and business opportunities and directing growth through infrastructure investments.

REALTORS® support growth measures that meet the underlying demand for housing and jobs by employing market-driven and innovative land use planning techniques that use the land more efficiently.

REALTORS® urge the following principles be used to guide planning under the Growth Management Act:

- Anticipate and plan for economic development and population growth in a timely, orderly and predictable manner.
- Ensure that comprehensive plans provide sufficient measures to accommodate growth by making available an ample supply of buildable land for residential, commercial, industrial and recreational uses to meet demand, while protecting open space and environmentally sensitive areas.
- Ensure local governments take a holistic approach to comprehensive planning and regulation development where plan elements are integrated with one another.
- Ensure that comprehensive plans provide a housing element with an inventory and analysis of existing and projected housing needs; housing targets to achieve existing and future population needs; a statement of goals, policies, objectives, and provisions for the preservation, improvement, and development of housing; and identify sufficient land for housing to accommodate growth, as prescribed in the state's Growth Management Act.
- Remove regulatory barriers to allow innovative land use planning techniques to be used in building higher density and mixed-use developments, as well as infill developments in urban cities.
- Ensure the process for reviewing site-specific land development applications is reasonable, predictable and fair, and that state agency permit processes are integrated with local government permit processes including appeals.
- Plan and construct new infrastructure in a timely manner to keep pace with the current and future demand for housing and, find fair and broad-based ways to pay the costs of infrastructure investment that benefit the entire community.

- Achieve a reasonable balance in the land use planning process by using innovative planning concepts to protect the environment that facilitate housing choices for all income levels, attract employment opportunities close to housing, improve traffic flow and appropriate transportation options, relieve over-crowded schools, and enhance quality of life.

## D. Regulatory Reform

Government regulations and fees lead to an increase in the cost of housing, mixed use development, commercial and industrial development. Further, government should recognize that application fees, mitigation requirements, compliance costs and additional interest charges add significantly to the final cost of a development project. Implementing the following recommendations can reduce residential, commercial, and industrial development costs:

- Public policy relative to protecting the environment should prioritize environmental concerns while taking into account the overall cost of protection programs and implementing regulations on the cost of development, especially in relation to housing projects.
- Local and state governments should coordinate, simplify, and clarify the development review and permitting processes in order to reduce the delays, uncertainties, and risks associated with delays in construction projects, especially housing-related projects. Local

permitting processes should be predictable (time certain) with fees directly related to actual government costs of processing development permits.

- Development standards should not exceed reasonable requirements to assure public health, safety, and welfare.
- Public jurisdictions should adopt procedures for equitably allocating the cost of new infrastructure by all taxpayers. Charges for new infrastructure should equal the actual costs of providing these services and not be used to offset the costs of other nonrelated programs.
- State and local governments should recognize the additional costs imposed through transfer taxes, impact fees, and time-consuming, repetitive permitting processes that impair local government's ability to ensure affordable housing for all economic segments of the community and at times, result in businesses locating just outside of Urban Growth Areas or in other nearby communities.
- State and local governments should carefully consider reforms such as raising SEPA thresholds, using programmatic EISs, consolidating permit review processes, and reducing the number of conditional use permits and variances.
- A stakeholder work group should be established to review replacing current zoning and development schemes with other concepts that



integrate rather than segregate uses such as performance zoning, Transect Planning, or Form-based codes. The report and recommendations of this body should be considered by the legislature for modernizing zoning and development requirements in Washington's communities.



## E. Concurrency

“Concurrency” refers to the concept that new development should not be permitted unless provisions are made for, adequate infrastructure (sewer, water, schools, roads, parks, fire protection) to serve the proposed development. Concurrency requirements have been incorporated into the Growth Management Act (GMA) to ensure that proposed growth does not reduce local

levels of service capacity. However, concurrency is but one of the many stated goals of the GMA. Accommodating growth is also a stated GMA goal, and therefore, concurrency should not be used as a means to stop growth.

If concurrency requirements result in moratoriums on further development, infrastructure projects should be addressed, prioritized and funded in the capital facilities plan to ensure that the moratorium will be lifted within a specific time period. Providing for and constructing new infrastructure are necessary to keep pace with the current and future demand for housing and commercial development.

Funding for new infrastructure should be addressed whether provided through private sector or public sector projects. Infrastructure funding should come from a combination of public and private sources. Once there is an agreed-upon plan for infrastructure, development should be allowed to proceed without a requirement to wait for the infrastructure to be in place.

## F. Development Permitting Process

REALTORS® believe that the permitting process for new residential and commercial development can and should be improved by adopting the following standards:

The permitting process should be predictable (time certain) with fees directly related to actual government costs of processing development permits.

Charges for new infrastructure should equal the actual costs of providing these services and not be used to offset the costs of other nonrelated programs.

## **G. Property Owner Rights (Private Property Rights)**

REALTORS® recognize that balancing public and private interests in the area of land use is a major ongoing political and social issue. There is a trend toward shifting the costs of public benefits to private individuals through increased public control over private property at both the state and local government levels. We recognize the need for all levels of government to be able to exercise legitimate police powers in the regulation of private property to protect the health, safety and general welfare of its citizens. When government actions or regulations are not based upon legitimate police powers, the government should be required to compensate the property owner for the loss of or devaluing of the private property.

REALTORS® are dedicated to protecting the right to own, use and transfer real property. We believe the highest and best use of property should always be taken into account when new land use regulations are being considered.

REALTORS® oppose the taking of private property through regulatory changes for a public use without timely and just compensation. If the taking of property is for a public use, then the public should compensate the private property landowners for the public benefit received. Compensation must be made to property owners when their property value is reduced in whole or in part by government regulation.

Compensation can take many forms, such as cash from Conservation Futures; the

purchase of easements; property trades; tax incentives; voluntary, market-based transfer of development rights programs; cash or in-kind payment; environmental mitigation credits for activity of prior owners; density bonuses; staging of concurrency; clustering, or adjustments to restrictions on lot size, number of units, or building dimensions.

Likewise, REALTORS® oppose the government exercise of its eminent domain power to condemn private property for public use without “just” compensation to the affected property owners. Such compensation should include not only the value of the property condemned but also reasonable and necessary costs generated by the condemnation action including such costs as hiring legal counsel, obtaining temporary housing, lost business revenue, severance for damages. The use of a government’s eminent domain authority should only be used for a real public use and not for such purposes as economic development. The governmental entity should provide persuasive, objective evidence that the project and the public use and benefit will be realized.

## **H. Sign Ordinances**

REALTORS® recognize the right of government to regulate real estate signs. However, sign regulation should be fair and should not interfere with the right of free speech. The local real estate industry should be encouraged to work with local governments to establish reasonable sign controls.

# **III. ENVIRONMENT**

## **A. Climate Change**

Climate and energy are important issues under consideration by the state and its



local jurisdictions. How these governments choose to address the issues of climate change and energy through policies and regulations and how rapidly they are put in place will have a significant impact on Washington's homeowners, renters and businesses that include the residential and commercial real estate industry. Proposals to address climate change and modify how we generate and use energy will affect different parts of the economy in different ways. Some industries may be directly subject to a new "cap and trade" regulatory system that will seek to reduce carbon emissions. Other business sectors will experience indirect, but significant impacts from climate change and energy policies through increased business costs, decreased consumer purchasing power, or programs seeking to address climate and energy issues by influencing consumer decisions through taxes, incentives, or marketing.

REALTOR® efforts on climate and energy issues will focus first on those issues that directly affect real estate transactions and the cost and supply of housing and land development. In addition, REALTORS® will work with businesses, utilities, and local governments on climate issues that while not directly affecting real estate transactions or development, will impact our economy and the real estate market.

A number of climate and energy topics will be critical to Washington's real estate industry:

- **Federal vs. State Regulation:** Climate and energy are global issues, and should, at a minimum, be addressed at the federal level and not be addressed on a state-by-state basis. Our approach to climate change should not put Washington State or the United States at a competitive disadvantage to other states or countries.
- **Improving Energy Efficiency of Existing Homes and Buildings:** REALTORS® support tax incentives, grants, utility-homeowner partnerships, and other voluntary programs to increase the energy efficiency of homes and buildings. REALTORS® strongly oppose point-of-sale mandates, labeling, and mandatory energy audits.
- **Consumer Education and Marketing:** REALTORS® continue to develop, provide and support green education and marketing programs to assist consumers and home and building owners regarding green options. Options include cleaning products, building materials and room finishing products, use of low impact development to manage storm runoff, and energy efficiency choices so that home and building owners can make informed decisions about cost-effective energy improvements and can use energy efficiency upgrades while lowering the greenhouse gas emissions of buildings.
- **Energy Standards for New and Existing Homes and Buildings:** REALTORS® support energy code standards for new construction and retrofits of existing buildings that are cost-effective and sustainable for the useful life of the buildings. REALTORS®, however, strongly oppose point-of-sale mandates, labeling, and mandatory energy audits associated with the implementation of energy standards.

- **Land Use:** Amending the Growth Management Act (GMA) to include climate change policies that implement regulations will result in uncertainty, litigation, and unnecessary increased costs for renters, home owners and businesses. Rather, REALTORS® support addressing climate change policies through the existing requirements of the GMA to accommodate growth in urban growth areas with a variety of densities and housing choices located near job centers and in areas with access to multi-modal transportation options. REALTORS®, at the same time, strongly believe that while implementing the GMA requirements we should preserve the lifestyle choices and the economic value of rural areas.
- **Transportation:** Vehicles Miles Traveled (VMT) benchmarks provide an inaccurate measurement of carbon emissions from the transportation sector. New vehicle and alternative fuel technologies have already resulted in fewer carbon emissions per mile driven. REALTORS® oppose the use of VMT to control land use and transportation planning decisions.



## **B. Endangered/Threatened Species**

REALTORS® support a balanced approach to the recovery of listed endangered/threatened species. The impacts to our economy and individual property rights must be part of the recovery equation. Limited financial resources of governments and private philanthropists must be directed toward preserving existing, high-quality habitat.

REALTORS® believe that a primary cause of salmon decline is the mismanagement of fisheries, including over-fishing but recognize there are complexities in the ecosystems where salmon spend time during their life cycle. Since much of a salmon's life span is spent in the ocean prior to returning to spawn, changes in the ocean due to natural cycles or climate change may impact their food web and in turn impact the amount of salmon returning to their birth streams. Federal agencies need to continue to do scientific investigations on the causes of declining runs, including harvest and predation issues and identify solutions/actions based upon peer-reviewed science.

REALTORS® believe federal, state and local governments must work with landowners, businesses, and others to ensure salmon and other ESA-listed species recovery solutions are based upon peer-reviewed science and take into account the fact that the landscape context in which



the recovery occurs is largely considered an altered built environment in both the urban and rural areas. A balanced approach is needed in preserving natural environments in these altered, built landscapes to address the needs of the listed species and the needs of the human population living in these landscapes.

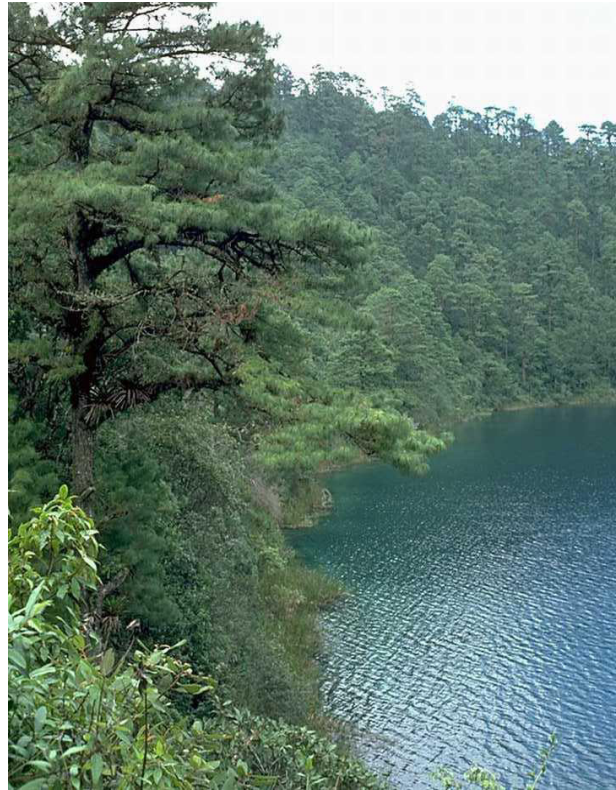
REALTORS® believe that funding for the recovery of endangered/threatened species must be directed toward projects, not planning or personnel, and that local enhancement and volunteer groups provide the most cost-effective habitat recovery methods.

REALTORS® believe that the government should compensate landowners for the use of their private land when the protection of an endangered/threatened species affects the reasonable use of private land.

### **C. Environment: State and Local**

REALTORS® believe environmental restrictions on the use of land and water must be based on a thoughtful approach that balances human needs with environmental values. Such an approach fosters and promotes the general welfare by creating and maintaining conditions under which man and nature can exist in productive harmony. The outcome will be the development of healthy, livable communities in urban and rural areas that support the needs of existing and future generations.

REALTORS® believe that those working on federal, state, or regional natural resource protection initiatives that affect the development and redevelopment of local communities and economies need



to recognize the work of, and directly coordinate with, local governments. Local governments understand the development history of their communities and the changes to the landscape over time, making them important partners with state or regional agencies in accomplishing resource protection in the altered, built environment in the state's urban areas. Urban areas of the state are designated as the preferred places for accommodating the majority of existing and future state residents.

Likewise, REALTORS® believe federal, state, or regional agencies charged with carrying out these natural resource protection initiatives should not automatically plan more stringent policies or requirements in rural or resource land areas (agriculture, forestry, mining) as a result of less opportunity for implementation in the urban portions of the state. These rural and resource lands, for the most part, are not

pristine but are areas where the landscape has been altered. Rural and resource lands provide places for people to live and work, and providing necessary food and building materials in response to urban area needs as well as providing environmental benefits such as carbon sequestration.

As state and local governments consider the adoption and implementation of natural resource measures, it is crucial they recognize that the ecological functions of a property will vary within a neighborhood, a community, and a watershed, and that some impact on the existing ecological functions of a project site may occur with development or redevelopment. REALTORS® understand the importance of minimizing impacts on those existing ecological functions. REALTORS® support reasonable, scientifically verifiable approaches to protect and mitigate existing ecological functions and provide, where appropriate, incentives for voluntary restoration. Broad-based or one-size-fits-all regulatory measures should be avoided.

REALTORS® also believe that the government should compensate private landowners when governmental regulations to protect existing ecological functions on private property restrict development or redevelopment of the property and affect the reasonable use of private land. Finally, REALTORS® believe state laws such as the Growth Management Act, State Environmental Policy Act, Shorelines Management Act and water pollution and stormwater regulations, must be better harmonized to avoid the duplication of permit processes and conditions resulting in significant delay or decisions to cancel projects. Without better integration of various state laws and implementing programs and regulations, the outcome can adversely impact environmental

quality and the interest of both urban and rural landowners and local governments.

## D. Water Resources

REALTORS® support modernizing the existing water right permitting process to eliminate the significant backlog of pending water right applications. The process for transferring existing water rights should be streamlined so that reallocation of existing water rights is a cost effective process for both small and large developments.

REALTORS® believe that exempt wells must be affirmed as a source of water supply for those who cannot connect to an existing public water system. The use of exempt wells is, in part, a response to the difficulties in obtaining water rights, and exempt wells are frequently the only source of water in rural areas. REALTORS® oppose state water resource regulations that



are inconsistent with local land use plans by failing to provide for sufficient quantities of water for exempt withdrawals. REALTORS® believe the state must coordinate with local government entities to provide adequate supplies of permitted and exempt water to implement local land use planning and zoning decisions.

### **E. On-Site Septic Systems**

REALTORS® support local septic regulations that are reasonable and cost-effective and that allow homeowners to maintain and certify existing septic systems. Septic regulations should not conflict with existing state seller disclosure requirements regarding septic systems. REALTORS® support state and local health departments' review and approval of new septic technologies, which protect human health and the environment in areas not served by sewer systems. Such systems should be designed for easy operation and maintenance by property and business owners.

### **F. Storm Water Regulations**

REALTORS® believe that stormwater regulations should not seek to impose pre-settlement hydrologic conditions, and that state and local stormwater programs must include provisions to enable redevelopment of the existing built environment. REALTORS® support minimizing stormwater regulations where possible to reduce the cost impacts and loss of buildable lands caused by new stormwater rules.

### **G. Hydraulic Permits**

REALTORS® believe criteria and exemptions for hydraulic permit requirements should be clearly defined. The Department of Fish and Wildlife jurisdiction for protecting fish life should be constrained to the area from the ordinary high water mark water ward and should not include areas landward of the ordinary high water mark. Hydraulic Project Approval (HPA) requirements should not duplicate other federal, state, and local regulatory requirements.





## **Consumer & Business Issues**

### **I. CONSUMER PROTECTION**

#### **A. Landlord/Tenant Relations**

REALTORS® support landlord/tenant laws that provide equitable treatment for both owner and tenant. This can best be achieved by uniform application and enforcement of the state Landlord/Tenant Law that ensures fairness and due process for both landlord and tenant, and provides both parties the right to give notice of termination of occupancy without stating a reason. The state's Landlord-Tenant Act clearly lays out the rights and responsibilities for both the landlord and tenant of residential rental property. It is important that tenants have remedies for their grievances. It is equally important that the owner's investment is protected and that both tenants and landlords honor the terms and conditions under which property is rented. Weighing the scale in favor of either owner or tenant serves only to create economic loss and housing shortages.

#### **B. Rental Housing and Rent Control**

REALTORS® believe the solution to rental prices is to increase the supply of rental units available to the market. Similar to the price of home ownership, the price of rent is influenced by the market. Rental prices increase when vacancy rates are low. The best tool

government has for addressing affordable rental rates is to encourage an increased supply of rental units to meet demand through local development regulations. Rent control legislation not only threatens the traditional rights of property owners, but also significantly reduces the housing inventory by discouraging the construction of new rental housing. In addition, capping rental income diminishes available funding for necessary building maintenance and repair, contributing to a death spiral of disrepair and reduced property value. Thus, the tax base, which is the source of funds for vital municipal services, is potentially reduced. In addition, enforcement of such controls adds to the expense of rent control. REALTORS® strongly oppose any type of rent control due to its detrimental impact to property owners, tenants, and local communities.

### **C. Fair Housing**

REALTORS® subscribe to the policy of fair housing. REALTORS® primary objective is to provide the American Dream of home ownership to all those who aspire to achieve it. We believe equal opportunity in housing can best be achieved through observance of the law, through education, and through mutual cooperation of the real estate industry and the public in a free and open housing market. The Federal Fair Housing Law assures all people the right to freely choose where they will live.

### **D. Seller Property Condition Disclosure**

REALTORS® believe that sellers of real property should disclose known conditions (including defects) of said property at the

time it is offered for sale. Disclosure must be within the limits of the seller's knowledge. Disclosure is a statutory requirement.

REALTORS® further believe real estate licensees should not be held liable for false or misleading information provided by owners unless the licensee knew, or reasonably should have known, the information was false or misleading.

### **E. Home Inspections**

REALTORS® believe licensed home inspectors are an important part of the home buying experience. The inspection protects consumers by helping potential homebuyers detect flaws in the home they wish to purchase. REALTORS® play an important role in educating the consumer and providing information about the advisability of a home inspection. REALTORS® are not responsible or liable for the actions of the home inspector, or the process in which the consumer wishes to choose the individual or company doing the inspection.

### **F. Lead-Based Paint and Contaminated Properties**

In 1992, Congress passed a national lead-based paint program that went into effect in 1998. Under this program, only certified contractors can conduct lead-based activities in homes. In 2003, the Washington State Legislature passed a law mandating that the state Department of Commerce seek authorization from the federal EPA and establish a lead-based paint program. As of 2011, all contractors or renovators providing professional lead-based paint training or activities in Washington are now required to be certified under the state's Lead-Based Paint program.

REALTORS® support the state's lead-based paint program to minimize and ultimately eliminate the health risks caused by lead-based paint in older properties. The current regulatory program at the state and federal level should not be expanded further until the adequacy of the current program can be implemented and evaluated.

With regard to other types of property contamination, REALTORS® support maintaining the statewide uniformity of the state Seller Property Condition Disclosure Law to provide disclosures regarding property contamination for both developed and undeveloped properties. Required disclosures should be limited to seller's actual knowledge. REALTORS® support use of qualified consultants and other experts to determine the existence and extent of property contamination for high risk properties.

## **II. BUSINESS ISSUES**

### **A. License Law**

Real estate license law promotes increased competency in the industry protecting consumers and the regulated industry. REALTORS® believe there should be a licensing requirement for all persons engaged in real estate brokerage services.

REALTORS® believe real estate license law should be continually reviewed and updated to address new developments in the real estate industry through development of new laws, administrative rules and appropriate educational and experience requirements.

### **B. Administrative Regulatory Reform**

REALTORS® support broad regulatory reform and greater accountability of agency rule makers and elected officials. Duplicative and conflicting laws and regulations should be removed from the Washington Administrative Code and the Revised Code of Washington. REALTORS® believe this action would reduce costs and provide greater predictability. State and federal government imposed mandates, regulations and processes add tremendous time and costly burdens to businesses, as well as the development of infrastructure. By reducing regulatory burdens government saves citizens millions of public dollars, and reduces the costs of businesses providing goods and services.

### **C. Point of Sale Requirements**

In recent years, state and local governments have increasingly sought to address environmental or public health issues by imposing point of sale requirements on real estate transactions. These point of sale requirements include such concepts as requiring real estate sellers to conduct energy efficiency audits, perform septic inspections and certifications, remove or modify fireplaces or wood-burning stoves, or inspect and repair sewer connections.

While REALTORS® support addressing issues such as energy efficiency, air pollution, and water quality, REALTORS® oppose doing so through state or local point of sale mandates. The sale of the real estate is not the cause of any potential problems, and thus the sale should not be the point at

which regulation occurs. Only a small percent of properties are sold in a given year, thus point of sale requirements are not focused on those properties that need attention. Point of sale mandates restrict a property owner's ability to sell real estate, and provide a significant disincentive for transactions by reducing seller equity.

If a business was causing an air or water pollution problem, state agencies or local governments would not simply wait until the business was sold to find a solution. Similarly, state and local governments should not wait until a property is sold to address any concerns. Further, point of sale mandates are inconsistent with the balance established between the duties of the seller and buyer through the state's real estate seller disclosure law.





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