

**2017-18**  
**LEGISLATIVE**  
**REPORT**



# WRA Special Report

## 2017-18 LEGISLATIVE HIGHLIGHTS



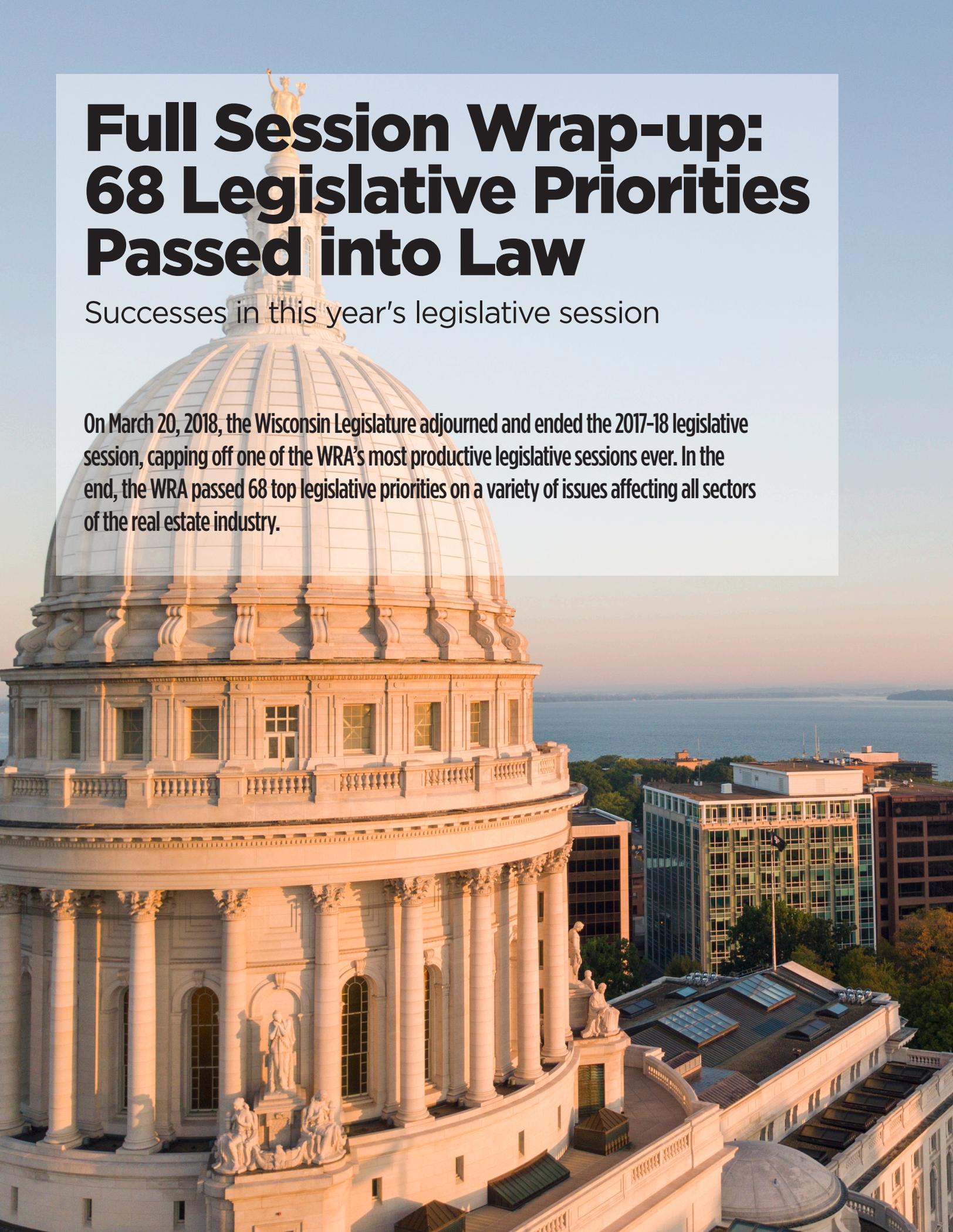
**Record-breaking  
2017-18 Session**

**68**

**REALTOR® VICTORIES  
AT THE STATE CAPITOL**

**FULL SESSION WRAP-UP INSIDE**

See what passed during the 2017-18 legislative session.

A high-angle photograph of the Wisconsin State Capitol building, showing its iconic white dome and classical columns. The building is set against a clear blue sky, with a cityscape and a body of water visible in the background. The lighting suggests a bright, sunny day.

# Full Session Wrap-up: 68 Legislative Priorities Passed into Law

Successes in this year's legislative session

On March 20, 2018, the Wisconsin Legislature adjourned and ended the 2017-18 legislative session, capping off one of the WRA's most productive legislative sessions ever. In the end, the WRA passed 68 top legislative priorities on a variety of issues affecting all sectors of the real estate industry.

# A Record-breaking 2017-18 Session

## Background

In January 2017, the WRA board of directors approved a comprehensive and ambitious list of legislative priorities for the 2017-18 legislative session. The list consisted of numerous legislative priorities designed to improve all sectors of Wisconsin's real estate industry – residential, commercial and industrial – and achieve a number of goals such as:

- Making home and property ownership more affordable.
- Protecting private property rights.
- Removing hurdles to successful real estate transactions.
- Making necessary infrastructure investments.
- Removing regulatory barriers to residential and commercial development.
- Making ownership of rental property less onerous.

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 the priorities. From reducing property taxes to protecting property rights to making homeownership more affordable, state lawmakers showed tremendous support for the WRA and the issues important to the real estate industry. In fact, most of the priorities received unanimous or bipartisan support, including the Homeowner's Bill of Rights (2017 Wis. Act 67), which included a provision grandfathering all substandard lots and a new framework for conditional use permits. Finally, the priorities consisted of some major policy changes in the area of property rights, effectively overturning five U.S. Supreme Court and Wisconsin Supreme Court cases.

The following pages provide a summary of the legislative priorities passed into law during the 2017-18 legislative session.

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## Making home and property ownership more affordable

- 1. State property tax (2017 Wis. Act 59):** Permanently reduces property taxes by approximately \$90 million per year by eliminating the state portion of the property tax.
- 2. Property tax reduction (2017 Wis. Act 59):** Further reduces property tax bills in Wisconsin by (a) continuing to allocate approximately \$200 million each year in state general purpose revenues to help fund Wisconsin's technical colleges, which is a \$131 reduction for the average homeowner over the biennium, and (b) modifying the school levy tax credit, which further reduces property taxes for property owners.
- 3. Property tax freeze/levy limits (2017 Wis. Act 59):** Renews the cap placed on local levies, but allows increases based upon net new construction and allows local governments to exceed the levy limits if approved through local referendum.

- 4. Personal property tax (2017 Wis. Act 59):** Partially repeals the personal property tax by eliminating the personal property tax on machinery, tools and patterns.
- 5. Housing impact statements (2017 Wis. Act 68):** Expands the scope of the housing impact statement requirement to more clearly outline the necessary procedures and analysis required for any administrative rule or legislation impacting the cost, availability or development of housing.
- 6. Housing affordability report (2017 Wis. Act 243):** Requires municipalities with a population of 10,000+ to identify and analyze:
- All local fees and regulations imposed on new residential development to better understand the impact of these fees and regulations on housing affordability.
  - Ways in which the regulations can be modified to:
    - Meet existing and future housing demand.
    - Reduce the time and cost necessary to approve and develop new residential subdivisions by 20 percent.
- 7. Park fees (2017 Wis. Act 243):** Modifies the enabling authority to impose park fees under Chap. 236 to be consistent with impact fee requirements.
- 8. Development fee report (2017 Wis. Act 243):** Requires municipalities with a population of 10,000+ to prepare an annual report that includes:
- A list of all local fees, and fee amounts, related to residential construction, remodeling or development.
  - The total amount of local fees above imposed on residential construction and development in the prior year broken down by the cost per housing unit.
- 9. Low income housing tax credits (2017 Wis. Act 176):** Creates a new tax credit program that provides \$42 million in annual tax credits to finance apartments reserved for low-income renters.

**10. Condominium document fees (2017 Wis. Act 303):**

Places the following caps on the fees that can be charged for documents related to the sale of a condominium:

- \$50 cap for condominium disclosure documents, but allows higher fees to be charged if established by the condominium association.
- Prohibits a fee for a payoff statement unless a reasonable fee has been established by the condominium association by resolution or written agreement.

**11. Executive summary for condominium rules (2017 Wis. Act 303):**

Requires the executive summary related to condominium rules to include the following:

- A date on which it was prepared or revised.
- The amount of the reserve balance.
- A disclosure as to whether the condominium association has a first right to purchase the condominium unit.
- A disclosure as to whether any fee was charged and the amount in connection to the transfer of the unit's ownership.

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## Protecting private property rights

- 1. Right to rent (2017 Wis. Act 59):** Protects the ability of homeowners to rent out their homes by allowing local communities to regulate but not prohibit such rentals for seven days or more.
- 2. Substandard lots (2017 Wis. Act 67):** Grandfathers all substandard lots and prohibits local governments from restricting the sale or development of such lots, and requiring adjacent, substandard lots in common ownership to be merged.



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**3. Conditional use permits (CUPs) (2017 Wis. Act 67):**

Creates a statutory framework for CUPs and provides additional certainty for property owners by establishing a more fair and reasonable approval process.

**4. Variances (2017 Wis. Act 67):** Codifies current case law with respect to use and area variances.

**5. Nonconforming structures (2017 Wis. Act 67):**

Prohibits local governments from requiring a variance to maintain, renovate or remodel nonconforming structures.

**6. Vested rights (2017 Wis. Act 67):** Clarifies that an application for a development permit is grandfathered from any changes to local ordinances at the time the application is submitted even if multiple permit requirements for the development must be met.

**7. Right to challenge property tax assessments (2017 Wis. Act 67):** Restores the right of all homeowners to challenge property tax assessments they believe to be incorrect regardless of whether they deny assessors entry into their homes.

**8. Consideration of income approach to value in eminent domain proceedings (2017 Wis. Act 243):** Requires courts to consider the income approach to value in eminent domain proceedings.

**9. Relocation costs in eminent domain proceedings (2017 Wis. Act 243):** Expands the scope of eligible expenses to be considered in determining relocation costs for an owner or a displaced owner or tenant of a business in an eminent domain proceeding.

**10. Riprap permit exemption (2017 Wis. Act 59):** Exempts from permitting requirements the placement of riprap up to 200 linear feet in rivers or inland lakes, or 300 linear feet in a Great Lakes water body if certain conditions are met.

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## Removing hurdles to successful real estate transactions

**1. Rental weatherization (2017 Wis. Act 59):** Eliminates the rental weatherization program, which required weatherization of rental units and certification before the property was sold or transferred.

**2. Rental weatherization open stipulations (2017 Wis. Act 317):** Eliminates all, which is approximately 35,000, remaining open stipulations and waivers related to the rental weatherization program.

**3. Appraisal management companies (AMCs) (2017 Wis. Act 113):** Makes Wisconsin compliant with federal law that requires states to regulate AMCs by August 10, 2018, and addresses various appraisal issues, such as:

- Geographic competency: Requires appraisers to

demonstrate competency in the geographic area in which they perform an appraisal.

- Reasonable and customary fees: Requires AMCs to compensate appraisers at a rate that is reasonable and customary for the market area.
- Appraiser review: Requires AMCs to review appraisals to ensure compliance with USPAP.

**4. Seller pre-agency (2017 Wis. Act 110):** Requires a listing contract if the seller's property is being promoted or advertised for sale or for lease.

**5. Advertising of firm name (2017 Wis. Act 110):** Requires the firm's name to be clear and conspicuous in all advertising.

**6. Negotiations relating to personal property (2017 Wis. Act 110):** Clarifies that licensees may negotiate the sale, exchange, purchase or rental of personal property when incidental to the transaction.

**7. Cooperation with out-of-state licensees (OSLs) (2017 Wis. Act 110):** Permits a Wisconsin firm to cooperate with commercial OSLs working with or representing buyers and/or tenants.

**8. Definition of "broker" (2017 Wis. Act 110):** Amends the definition of "broker" to include a person who:

- Indirectly negotiates or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate.
- Issues a written non-appraisal report of a property's value.

**9. Form-approval process (2017 Wis. Act 110):** Expedites the form-approval process by authorizing the Real Estate Examining Board to consult directly with the WRA when a state-approved (WB) form is modified or created.

**10. Real estate condition report (RECR) (2017 Wis. Act 338):** Redesigns the RECR to create a more seller-friendly document to complete by reformatting and reorganizing the disclosures.

**11. Vacant land disclosure report (VLDR) (2017 Wis. Act 338):** Redesigns the VLDR to create a more seller-friendly document to complete by reformatting and reorganizing the disclosures.

**12. Seller disclosures (2017 Wis. Act 338):** Reduces liability for real estate licensees by adding various disclosures to the RECR including:

- Insurance claims: Any insurance claims filed related to damage to the home, buildings or vacant land.
- Burial sites: Any known burial sites located on the property.
- Water quality issues: Any known water quality issues related to unsafe concentrations or conditions relating to lead.
- Rented items: The presence of any rented items on the property such as water softeners.

13. **"Defect" definition in inspection reports (2017 Wis. Act 338):** Creates a definition of "defect" for home inspectors consistent with the definition in the offer to purchase.
14. **Floodplain zoning ordinances (2017 Wis. Act 242):** Requires local floodplain zoning ordinance to be consistent with any FEMA letter of map amendments.
15. **Requirements for certain state leases (2017 Wis. Act 132):** Requires the Wisconsin Department of Administration to do the following before entering into, renewing or extending a lease:
  - Conduct a cost-benefit analysis comparing the lease with purchasing the space or another suitable space.
  - Evaluate comparable lease options within a 10-mile radius or wider, as needed, to ensure the lease rate per square foot does not exceed that of comparable properties by more than 5 percent.
16. **Improving real estate licensing credentialing (2017 Wis. Act 59):** Improves accuracy of real estate licensee information on the DSPS website by allowing users to update information regarding type of license, name of firm and address.

## Making necessary infrastructure investments

1. **K-12 school funding (2017 Wis. Act 59):** Increases funding for K-12 schools by approximately \$639 million over the biennium.
2. **Transportation (2017 Wis. Act 59):** Provides approximately \$400 million in bonding over the biennium for transportation-related infrastructure needs, including \$252 million as part of the I-94 north south mega project.
3. **Historic rehabilitation tax credit (2017 Wis. Act 280):** Maintains the state historic rehabilitation tax credit up to \$3.5 million per project.
4. **Broadband access (2017 Wis. Act 59):** Provides \$35.5 million for broadband expansion and enhancement, targeting underserved areas of the state.
5. **Lead service line replacements (2017 Wis. Act 137):** Authorizes public water utilities to provide a grant, loan or both to a property owner for the purpose of replacing water service lines containing lead.
6. **Eligible project costs for mixed-use TIDs (2017 Wis. Act 15):** Makes an expenditure that directly serves to promote mixed-use development an eligible project cost for mixed-use tax increment districts.
7. **TID personal property tax (2017 Wis. Act 223):** Clarifies that any state aid payment received is considered increment and must be attributed to the TID.

## Removing regulatory barriers to residential and commercial development

1. **Disturbances to urban state wetlands (2017 Wis. Act 183):** Allows disturbances, up to 1 acre, to lower quality state wetlands in "urban areas" and exempting such disturbances less than ¼ acre from mitigation.
2. **Disturbances to rural state wetlands (2017 Wis. Act 183):** Allows disturbances, up to 3 acres, to lower quality state wetlands in rural areas for the purposes of building or expanding a structure with an agricultural purpose. No mitigation is required.
3. **State wetland delineations (2017 Wis. Act 183):** Extends the life of state wetland delineations from five to 15 years.
4. **Artificial wetlands (2017 Wis. Act 183):** Exempts "artificial wetlands," which are manmade wetlands, from state permitting requirements.
5. **Nonfederal wetland mitigation (2017 Wis. Act 183):** Allows the property owner to choose the form of mitigation, on-site or off-site, for wetland disturbances.
6. **Preemption of local wetland regulations (2017 Wis. Act 183):** Prohibits a local government from enacting an



ordinance or adopting a resolution regulating a wetland activity identified in Act 183.

7. **Federal wetlands (2017 Wis. Act 183):** Authorizes the Wisconsin Department of Natural Resources (DNR) to request permission from the U.S. Environmental Protection Agency to take exclusive regulatory jurisdiction over federal wetlands.
8. **Inclusionary zoning (2017 Wis. Act 243):** Prohibits local communities from adopting inclusionary zoning ordinances, which require a certain number or percentage of new housing units, rented or sold, to be "affordable."

**9. Increased service capacity (2017 Wis. Act 243):**

Prohibits municipalities from requiring an increase in infrastructure service capacity greater than what is necessary to service new development.

**10. Operations and maintenance of public facilities (2017 Wis. Act 243):**

Prohibits municipalities from imposing impact fees for operations and maintenance of public facilities.

**11. Refund of impact fees (2017 Wis. Act 243):**

Requires municipalities to refund any impact fees collected but not used within eight years after being collected.

**12. Payment of impact fees (2017 Wis. Act 243):**

Allows developers to pay impact fees at the time a building permit is issued or six months before the costs to construct, expand or improve public facilities are actually incurred, whichever is later.

**13. Letters of credit (2017 Wis. Act 243):**

Allows developers to provide an irrevocable letter of credit to pay for impact fees.

**14. Supermajority requirement for zoning changes (2017 Wis. Act 243):**

Eliminates the supermajority requirement for challenges to zoning changes.

**15. Performance bonds (2017 Wis. Act 243):**

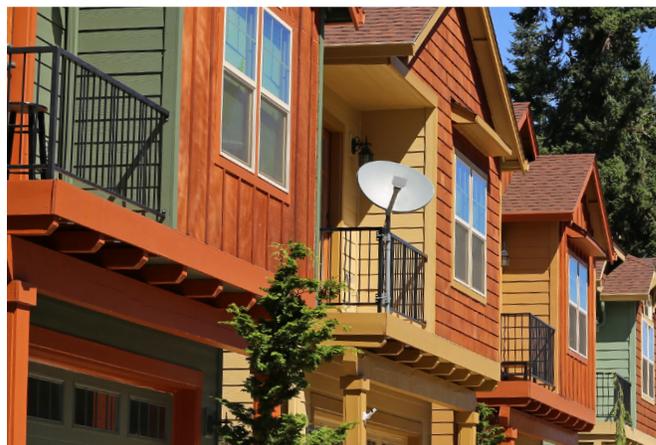
Authorizes developers to provide performance bonds, which may include a multiple obligee rider, a letter of credit or any combination thereof, to satisfy any financial security requirements necessary for residential subdivisions.

**16. Creating a general permit for dredging of certain inland waterways (2017 Wis. Act 214):**

Requires the DNR to create a statewide general permit for dredging of an inland waterway that is an impoundment or associated feature.

**17. Creation of an electronics and information technology manufacturing zone (Foxconn) (2017 Wis. Act 58):**

Provides approximately \$3 billion in performance-based tax credits, infrastructure and other regulatory changes to implement an agreement negotiated between the state of Wisconsin and the Foxconn company.



**Making ownership of rental property less onerous**

**1. Municipal inspections (2017 Wis. Act 317):**

Limits the authority of municipalities to conduct inspections of rental property unless there is evidence of blight, high rates of building code complaints or violations, deteriorating property values, or increase in single-family home conversions to rental units.

**2. Emotional support animals (2017 Wis. Act 317):**

Requires a tenant who is seeking to keep an emotional support animal in the unit to, upon request by the

landlord, provide documentation from a state-licensed professional, acting within the scope of his or her practice, on the tenant's disability and disability-related need for the animal.

**3. Historic preservation (2017 Wis. Act 317):**

Authorizes owners of historic properties to use materials, during the repair and replacement process, that are substantially similar to the original building materials.

**4. Notice of ordinance violations (2017 Wis. Act 317):**

Requires municipalities to notify the property owner by first class mail or email of an ordinance violation. Exception for clearing ice and snow or a violation that creates an immediate danger to public health, safety or welfare are exempted.

**5. Termination of tenancy for failure to pay rent (2017 Wis. Act 317):**

Provides that a notice for failure to pay rent or any amount due under a rental agreement is a valid notice for purposes of terminating a tenancy unless:

- The tenant paid or tendered payment of the amount due or the amount the tenant believes to be due.
- The landlord's statement of the amount due is intentionally incorrect.

**6. Defense of eviction action (2017 Wis. Act 317):**

Specifies that a landlord's prior waiver of a violation or breach of terms of the agreement cannot be used as a defense to an action of eviction or a claim for damages.

**7. Registration requirements (2017 Wis. Act 317):**

Prohibits municipalities from:

- Requiring property owners from registering or obtaining a certification or license relating to owning or managing a residential rental property.
- Charging a fee for registration of rental property, except for a one-time \$10 per building fee for registering the building and another \$10 per building for registration of a change of ownership.

# Making a Difference with **RPAC**



**Dan Lawler**  
2018 RPAC Chair

Decisions from Washington and Madison 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 the committee needs 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 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 2017-18 Legislative Report informative.

**Learn more at [wra.org/RPAC](http://wra.org/RPAC).**