

## Realtors seek to amend state constitution over transfer taxes

*Ballot initiative would close the door on one tool affordable housing advocates had sought for low-income residents*

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Two years ago, the state of Oregon took a bold move to create a sustainable funding source for affordable, low-income housing. The document recording fee — a \$15 fee on real estate documents filed with the state — generated an estimated \$18.5 million in the 2009-2011 biennium, dedicated to multi-family rental housing, homeownership assistance, and homelessness prevention for working families, seniors and people with disabilities.

It will be the last of its kind, if a proposed constitutional amendment runs its course in the 2012 general election.

A ballot initiative now circulating seeks to prohibit state and local governments from imposing taxes, fees or assessments on the transfer of any interest in real property. The initiative exempts such assessments in place as of Dec. 31, 2009, which includes the document recording fee. Across the country, many states and local municipalities have similar assessments in place, often a small percentage — between 0.5 and 1.5 percent in most instances — applied to the sale value of the house, that is then applied to general or specific uses by government.

It may seem superfluous to put such language in the state constitution given that the Oregon State Legislature has had a preemption in place since 1995 that prohibits local governments and the state from adopting such a tax. This initiative goes further in amending the state constitution, taking the decision out of legislators' hands. Petitioners need to gather nearly 117,000 signatures to get the initiative on the ballot.

Pushing the initiative forward is the Oregon Association of Realtors, which succeeded in getting the preemption established in 1995. The state agency is backed by a nationwide movement of the National Association of Realtors and funded through a special \$75 assessment on Oregon Realtor members. With approximately 14,000 Realtors across Portland, the fund is expected to generate about \$1 million for the campaign named Protect Oregon Homes.



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— JANET BYRD  
HOUSING AUTHORITY

For Realtors, the preemption in place is not enough to protect against a real estate transfer tax, or RETT, which could tack on thousands of dollars in the sale of a house. Given the economic climate, the Realtors Association says the pressure on lawmakers to impose such a tax is too tempting.

“In every session there are bills introduced so that there can be transfer taxes,” says Art Kegler, a Realtor in Boardman who is the chief petitioner on the initiative. “It could be overturned in the legislature very easily. There were three bills for transfer taxes in the last session alone.”

Kegler argues that such a tax penalizes home buyers and sellers, and is not conducive to the recovery of the real estate

market, to employment or business. Kegler is also the chairman of the Oregon Real Estate Agency, the state agency assigned to consumer protection in real estate transactions. His term ends in December. Kegler says Protect Oregon Homes has about 100,000 signatures toward its goal of 165,000 to ensure the initiative is on the ballot in 2012.

“I think in this particular environment, most people are selling because they have to, not because they choose to, said Shaun Jillions with the Oregon Association of Realtors. “And we’re seeing a rampant rise in distressed properties, foreclosures and short sales where people aren’t walking away with any money. They don’t have the money to bring to the table,” Jillions said.

On the other side of the issue are affordable housing advocates who for years have called for lawmakers to rescind the RETT preemption to pave the way for a new sustainable resource for low-income housing.

“Real estate transfer taxes, document recording fees and other assessments that would be banned by the proposed initiative are all tools in a tool box that government can use,” says Janet Byrd, executive director of the Housing Alliance, a statewide coalition of affordable housing advocates. “We don’t have any simple answers for how to solve the problems were facing such as

homelessness, and we need to look at all of our possible options. Real estate transfer taxes or document recording fees are small assessments which can raise funds to help those among us who need a safe place to call home.”

Banning these kinds of assessments permanently takes away options for governments and communities to use in considering ways to solve problems, says Byrd.

“Local communities and the State Legislature should have the ability to consider all our options, particularly in times of economic downturn,” Byrd says. “It’s also a bad idea to alter the constitution for specific issues.”

Municipalities and counties across the state of Washington have real estate transfer taxes in place, in addition to a 1.28 percent statewide transfer fee. These fees can vary widely, and there are often exemptions in place, such as minimum values or for family transactions. Nationwide, transfer taxes raise billions for local governments.

Washington County is the only local government in Oregon that currently has a real estate transfer tax in place. The county assesses 0.1 percent, or \$1 per \$1,000 of assessed value of a home at the time of sale. It was put in place in 1977, and raises millions each year for the county’s general fund. In 2006, during the peak of the housing bubble, the tax raised \$5.9 million. In 2007, it raised \$5.6 million. Those figures dropped in 2008 when the bubble burst, and in the 2010-11 fiscal year, the county took in \$2.2 million from the tax. Like the document recording fee, Washington County’s tax would be grandfathered in if the amendment is passed.

“For Multnomah County, one of our primary agenda items each year is to repeal preemptions on local governments and ensure that no more preemptions are passed, regardless of the issue,” says County Commissioner Deborah Kafoury. “Local governments are so strapped right

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