

Wisconsin Prohibits Time of Sale Requirements

Wisconsin recently enacted legislation banning local governments, including cities, villages, counties and towns, from imposing time of sale ("TOS") requirements on the sale of real property. The new legislation is of great significance to the real estate industry.

A TOS requirement is an obligation that must be performed by either a buyer or seller when a property is sold. Municipalities impose these requirements to address possible concerns related to the property. These concerns often include health, environmental, safety or aesthetic problems associated with the property.

For example, some municipalities in Wisconsin required a property owner to obtain an inspection prior to selling the property. If the property failed to comply with all applicable laws and ordinances, the property owner could be on the hook for significant and costly repairs before being permitted to close on the sale of the property. The problem associated with TOS requirements is that many property owners cannot afford expensive repairs and upgrades prior to selling the property.

Wisconsin Statutes section 706.22 was enacted to prevent municipalities from imposing these requirements on sellers. The statute states that municipalities may not "restrict the ability of an owner of real property to sell or otherwise transfer title to or refinance the property by requiring the owner or an agent of the owner to take certain actions with respect to the property or pay a related fee, to show compliance with taking certain actions with respect to the property, or to pay a fee for failing to take certain actions."

The statute, by design, is broad in its scope in limiting the restrictions municipalities can place on *sellers* of real property. These restrictions are not allowed before, at the time of or within a certain time period after selling the property. Any ordinance that is inconsistent with this provision is unenforceable as of July 14, 2015.

On February 29, 2016, Wisconsin expanded the scope of the statute. The expanded legislation prohibits municipalities from placing similar restrictions on *buyers* of real property. While the practical application of the new legislation is still unknown, municipalities are arguably prohibited from charging a buyer a fee that often accompanies property recording applications. Any ordinance that is inconsistent with this provision is unenforceable as of March 2, 2016.

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