

A Real Estate and Land Use Law Update

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Real Property Transfer Tax Battle In Oregon Begins Again

Oregon Revised Statute 306.815 presently prohibits any city, county, district, or other political subdivision or municipal corporation from imposing a transfer tax. The only exception is the existing transfer tax in Washington County. In virtually every session of the Oregon Legislature, there are bills to allow the imposition of transfer taxes. House Bill 2518 was recently filed and seeks to allow the imposition of a transfer tax but only if three conditions are satisfied:

1. The tax or fee is structured progressively based upon the amount of the consideration paid or received;
2. Transfers in which the buyer is a first time buyer are exempt from the tax or fee; and
3. The marginal tax rate or fee decreases as the length of the ownership of the seller increases.

This is just the first shot across the bow, and there will probably be other proposals that will come forward during this legislative session since this one has little in the way of specifics.

On another front, the Oregon Association of Realtors (the "Association") is using the initiative process to prohibit transfer taxes by way of a constitutional amendment. The Association hopes to put the initiative on the November 6, 2012, ballot. The campaign, called "Protect Oregon Homes," would prohibit real estate transfer taxes, fees or other assessments, except those operative on December 31, 2009 (*i.e.* Washington County Transfer Tax). As a result of recent changes in Oregon's initiative process, it is now possible for a person to pull up a copy of the petition on the web, sign it and send it into the chief petitioners. A copy of the petition can be secured at portlandoregonhomes.com.

At a recent meeting of the Commercial Association of Realtors, a representative of the Association said that this initiative should qualify for the November 2012 ballot, and if successful, transfer taxes or fees in Oregon will be prohibited. However, even the initiative exempts the Washington County transfer tax, which may survive as a historical anomaly.

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