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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Housing
(AC-Ho)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (Aug/2010)

Absent: (0) None.

Moved by Representative Townsend, seconded by Representative Honadel that **Assembly Amendment 1** be recommended for adoption.

Ayes: (7) Representatives Wieckert, Stone, Townsend, Honadel, Hebl, Young and A. Williams.

Noes: (0) None.

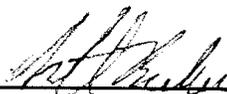
ASSEMBLY AMENDMENT 1 ADOPTION RECOMMENDED,
Ayes 7, Noes 0

Moved by Representative Townsend, seconded by Representative A. Williams that **Assembly Bill 808** be recommended for passage as amended.

Ayes: (7) Representatives Wieckert, Stone, Townsend, Honadel, Hebl, Young and A. Williams.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 0



Scott Becher
Committee Clerk



Vote Record Committee on Housing

Date: 3/6/2008

Moved by: TOWNSEND

Seconded by: A. WILLIAMS

AB 808 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Steve Wieckert, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Townsend	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Honadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leon Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Annette Polly Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record Committee on Housing

Date: 3/6/2008

Moved by: TOWNSEND Seconded by: HONADEL

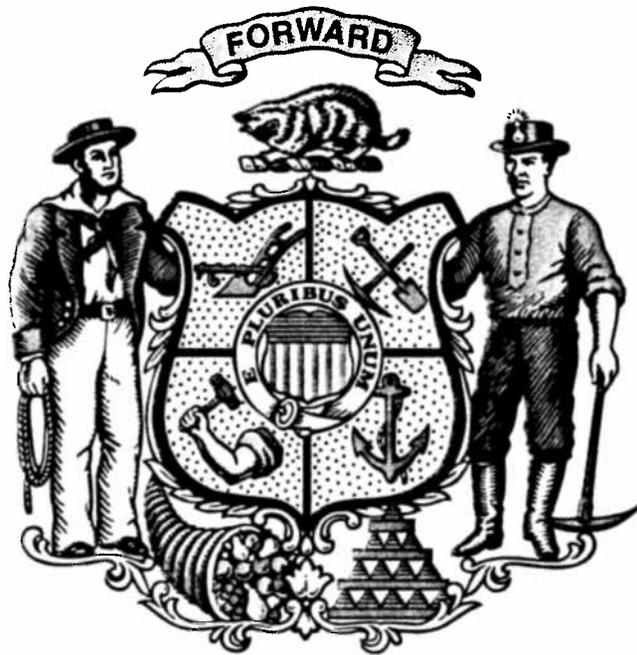
AB 808 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 1
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- | | | | | |
|---------------------------------------|--|---------------------------------------|---|--|
| <input type="checkbox"/> Passage | <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Confirmation | <input type="checkbox"/> Concurrence | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Rejection | <input type="checkbox"/> Tabling | <input type="checkbox"/> Nonconcurrence | |

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Steve Wieckert, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeff Stone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Townsend	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Honadel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leon Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Annette Polly Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>7</u>	<u>0</u>	_____	_____

Motion Carried Motion Failed





Wisconsin **REALTORS** Association
e-mail: wra@wra.org | Web site: www.wra.org

Michael J. Spranger, ABR, CRS, GRI, Chairman
e-mail: sprangerm@firstweber.com
William Malkasian, CAE, President
e-mail: wem@wra.org

Memorandum

TO: All Legislators

FROM: Michael Theo and Rick Chandler

DATE: February 19, 2008

RE: AB 808 – Capital Gains Investment for Housing

The Wisconsin REALTORS Association (WRA) supports Assembly Bill 808, legislation to defer taxation on certain capital gains that are used to purchase a primary residence. We believe this legislation will have a positive impact on Wisconsin's housing market and deserves legislative support.

The intent of this bill is to make it easier for people to sell assets and use the proceeds to purchase a home. Under the bill, anyone who realizes a capital gain from the sale of an asset can defer paying taxes on that gain if they use the proceeds to purchase a primary residence. Since 60% of the gain is excluded from taxation under current Wisconsin law, this bill would allow individuals to defer tax on the remaining 40% if they use it to purchase a home. While that individual would pay tax on those funds when they eventually sold the home, the immediate benefit at the time of purchase means buyers would have additional revenues that can be used for the down payment or other upfront costs associated with purchasing a home.

At a time when home buyers are faced with tightening credit availability, any additional available cash at the time of purchase could prove very helpful to many buyers. In that respect, this legislation could only help Wisconsin's housing market and thus we encourage your support.





Testimony of State Representative Steve Wieckert

Assembly Bill 808 – Housing Stimulus *Assembly Committee on Housing* *Room 415 Northwest – February 21, 2008*

Good morning committee members. I am pleased to come before you today to discuss Assembly Bill 808, the Housing Stimulus bill.

This legislation will help to stimulate the housing industry in Wisconsin. Our state and national economy is rather fragile right now. Existing home sales are at a low point and new construction is extremely slow.

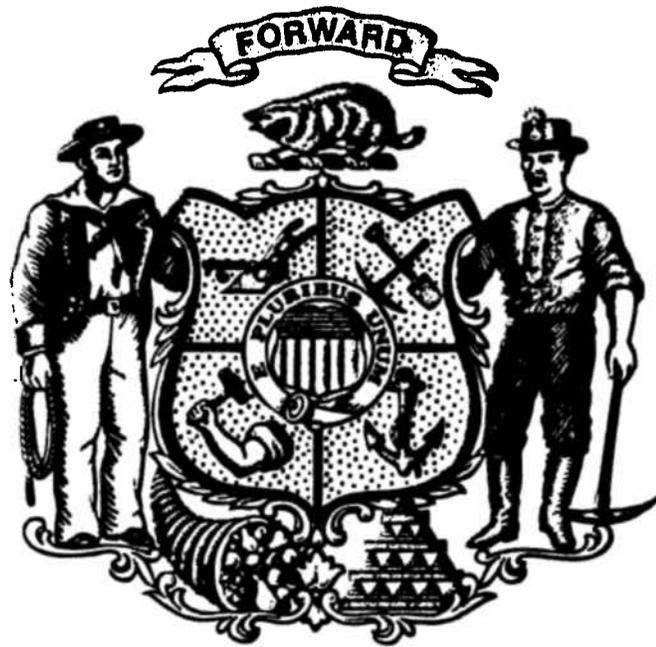
The housing industry is one of the major components of our economy. A while ago, home sales and auto sales were the two key elements to economic growth. Now things have changed. Many people feel now is a good time to buy a home because it is such a buyers market. This bill is an attempt to allow individuals to purchase homes if the individuals feel that is in their best interest, without experiencing the drag of our tax policy.

This bill would allow individuals who have capital assets to sell that asset and use 100% of the funds to purchase a primary residence, without a tax consequence at that original point of sale. Taxes would be deferred. That portion of the home sale that was financed by the tax deferred sale of the original capital asset would be payable when the home is sold. An example of this would be if someone had mature stocks or other capital assets they would like to sell and use the proceeds to buy a home which they would live in, there would be no capital gains tax on the sale of the stock at that point. It would allow the individual to have a seamless transfer from one asset to another based on the merits of the financial decision to the individual without being held back by a negative tax consequence, and help stimulate the housing industry.

Supporters of this legislation include:

- Wisconsin Builders Association
- Wisconsin Realtors Association
- Wisconsin Manufacturers & Commerce

Thank you. At this time I would be happy to answer any questions the committee may have.





State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6468 • FAX (608) 266-5718 • <http://www.revenue.wi.gov>

Jim Doyle
Governor

Roger M. Ervin
Secretary of Revenue

Assembly Housing Committee Hearing, February 21, 2008

Assembly Bill 808 - Creating a Procedure for Certain Taxpayers to Defer Taxation on Certain Capital Gains that are Used to Purchase a Primary Residence (Representative Wieckert)

Description of Current Law and Proposed Change

Under current Wisconsin law, individuals may exclude 60% of the gain realized from the sale of assets held more than one year when they calculate their income tax liabilities. Additionally, under current federal law, to which Wisconsin conforms, individuals may exclude up to \$250,000 of capital gains (\$500,000 for married taxpayers filing jointly) from the sale of their primary residence subject to certain use requirements.

Under this bill, an individual may elect to subtract the gain realized from the sale of an asset held more than one year if the claimant meets certain requirements. The requirements are: 1) immediately deposit the gain in a segregated account in a financial institution, 2) purchase a primary residential dwelling within 90 days, and 3) notify the Department of Revenue (DOR) on a form prepared by DOR that the claimant is deferring the payment of income tax on the gain. The allowable percentage of the gain that may be subtracted for taxable year 2008 is 4%. The percentage increases by 4% per year until 2017 when a subtraction for 40% of the gain will be allowed.

Under the bill, the basis of the purchased primary residential dwelling would be calculated by subtracting the realized capital gain from the cost of the purchased dwelling. If a claimant subtracts a capital gain under this bill, the claimant may not use the gain to net capital gains and losses.

Fairness/Tax Equity

- In order to be eligible for the subtraction in this bill, an individual would need to realize long term capital gains. In 2005, the average Wisconsin adjusted gross income for individuals without long term capital gains was \$41,700. For individuals with long term capital gains, the average income was \$75,400.
- The average marginal tax rate for Wisconsin taxpayers was 5.5% in tax year 2005. In contrast, the effective top marginal rate for long-term capital gains was 2.7% after taking the 60% long-term capital gain exclusion into account. This bill will further reduce that rate to the extent that taxpayers are able to reinvest their gains.

Impact on Economic Development

- The bill would reduce the cost of home purchase, thereby encouraging home ownership.

Administrative Impact/Fiscal Effect

- The extent to which taxpayers will take advantage of this subtraction is not known and the time horizon of the bill's phase-in period adds to the uncertainty in capital gain realization, so the revenue loss is inestimable. However, using the 2005 Individual Income Tax Sample, it is estimated that approximately \$170 million of individual income tax liability was attributable to the non-excludable portion of long term capital gains in taxable year 2005. Of the total \$170 million, \$115 million was collected from individuals who paid property tax on a primary residence.
- It is not known how many individuals used their long term capital gains to purchase a primary residence or the extent to which their taxable gains were less than the purchase price of their residences. For illustration purposes, if it is assumed that 10% of the homeowners used their long-term capital gains to purchase a primary residence in the taxable year and they were able to completely subtract those gains as a result of the bill, the fully phased-in cost of the bill would have been \$11.5 million annually in 2005 dollars (\$115 million x 10%). If 4% of the long-term capital gains could be deferred instead of the full 40%, the corresponding annual revenue decrease would have been \$1.15 million (\$11.5 million x 4% / 40%).
- The Department has a number of technical concerns related to the bill (see attachment).

Contact: Sherrie Gates-Hendrix, (608) 267-1262

Assembly Housing Committee Hearing, February 21, 2008

Department of Revenue Technical Concerns for Assembly Bill 808 - Creating a Procedure for Certain Taxpayers to Defer Taxation on Certain Capital Gains that are Used to Purchase a Primary Residence (Representative Wieckert)

The bill defines long-term capital gain as "the gain realized from the sale of any asset held more than one year..." When business assets are sold, for federal tax purposes (and Wisconsin) a portion of any gain due to depreciation is treated as ordinary income and does not get capital gain treatment. It is not clear whether the intent is that the portion of gain treated as ordinary income is subject to this provision. Sec. 71.05(6)(b)9 describes capital gains subject to the current 60% exclusion.

Paragraph (b) provides a subtraction from federal adjusted gross income for any amount of long-term capital gain subject to certain conditions. Paragraph (e)1 limits the subtraction to 4% of the long-term capital gain for 2008. It is not clear what happens to the other 96% of the capital gain. If it is still included in Wisconsin income and subject to the 60% capital gain exclusion then it is unclear how it is affected by par. (d), which provides that the claimant may not use the gain described under par. (b)1. to net capital gains and losses.

Paragraph (b)1 provides that the taxpayer must deposit the gain into a segregated account in a financial institution. Paragraph (c) provides that the basis of the purchased primary residence is reduced by subtracting the gain described in par. (b)1 from the cost of the purchased primary residence. It is not clear if it is the intent that the entire gain is required to be deposited, but only 4% is allowed to be subtracted. It is also unclear if the intent is that the basis is reduced by the entire gain.

The bill requires the gain to be "immediately deposited" into a segregated account in a financial institution, but no definition clarifies the time frame.

Under par. (b)1., the taxpayer must immediately notify the department, on a form prepared by the department, that the claimant will not declare on the claimant's income tax return the gain described under subd. 1. because the claimant has reinvested the capital gain in a principal residence. This appears to conflict with the limitation in par.(e). There is only a subtraction for 4% of the gain for 2008. There is no subtraction for the entire gain. It is also unclear what is meant by "immediately." It would be better to have the taxpayer submit a form with the tax return when filed.

Contact: Sherrie Gates-Hendrix, (608) 267-1262