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Wisconsin Law Puts Needed Limits on Residential Impact Fees

Builders and developers in Wisconsin advocating reform of impact fees in the state scored a swift victory on Tuesday, May 30 when Democratic [Gov. Jim Doyle](#) signed Senate Bill 681 (Wisconsin Act 477) into law — just seven weeks after the bill was introduced.



Wisconsin Governor Jim Doyle

"Over time, this legislation will help control the cost of new homes because it will lower the cost of developing a lot," said Bill Wendle, executive vice president of the [Wisconsin Builders Association](#). "It will be most helpful to first-time buyers, especially low- and moderate-income families, because it will make it easier for them to buy that first home and enjoy the benefits of homeownership."

The new law aims to limit a recent surge in the imposition of impact fees on residential development by no longer allowing localities to use them to finance "other recreational facilities" and "other transportation facilities." Public works and athletic fields are the only recreational facilities that can now be supported by the fees, and building roads is the only transportation-related activity allowed.

Another recently passed bill allows impact fees to go unused for no more than seven years. "If they truly need an impact fee to build a park, then they should be able to build the park in seven years," said Wendle.

The new impact fee measure will help builders and consumers in a number of ways, Wendle said:

- It limits the kinds of things that can be funded with impact fees. Impact fees now must be used only to expand infrastructure needed to support new homes.
- It prohibits counties from using impact fees.
- It imposes a reporting requirement on local governments.

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"One of the issues that the new legislation addressed is accountability on the part of municipal governments that collect these fees," said Frank Madden, president of the Wisconsin Builders Association and a home builder in the Milwaukee metro area. "One of the requirements is that there has to be a reporting to the public about how these fees are used."

It also shifts the point at which impact fees can be collected, Madden said. Under the new legislation, the fees will be collected at the time a building permit is issued.

"Let's say it takes several years before the developer begins selling lots," Madden continued. "But the purpose behind impact fees is to cover the cost of infrastructure needs of new home owners coming into the community. It makes no sense to require the developer to finance the cost of infrastructure several years before that infrastructure is needed."

"Now, the money will not be collected until you have a home buyer who has selected a lot and is ready to build a home," Madden said. "This also makes the buyer more aware of the fees. Impact fees should be very visible to the new member of the community — the person who is buying that lot and building a home."

"If you bury the impact fees in the development costs, then it's out of sight and out of mind for consumers," Madden said. "But this legislation makes these fees much more visible to home buyers, so the home buyers know what they are paying to buy a new home in the community."

Reform of current impact fee laws in Wisconsin brings much needed change in municipalities and communities where upwards of \$10,000 in impact fees per house can be charged. Wisconsin Act 477 seeks to protect residents from not only an increase in impact fees but also the use, and sometimes abuse, of impact fee funds in their communities.

The Wisconsin Builders Association and the [Metropolitan Builders Association of Greater Milwaukee](#) — two associations that have been in court over abuses where fees were collected for one purpose but then were used for another — agree that impact fees should be spent for the benefit of the people who pay them.

Madden also noted that the new legislation renders moot a Wisconsin court decision that allowed a municipality to collect a fee for one purpose and then use it for another. "This legislation tightens up the use of impact fees so a fee can only be used for the purpose for which it was collected," he said.

For more information, e-mail [Blake Smith](#) at NAHB, or call him at 800-368-5242 x8583.

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