

# WSBA Legislative Review Committee

## Proposed Bar-Request Legislation Cover Sheet

**PURPOSE:** Completion of the information in this cover sheet will help expedite the WSBA Legislative Review Committee’s review and approval process of potential Bar-request legislation. Of particular importance is information related to draft development and stakeholder work.

<b>Short title of proposal:</b> Eliminating the requirement for lease notary acknowledgments
<b>Submitted by (Section<sup>1</sup>):</b> Real Property Probate & Trust
<b>Designated Section representative and contact information (phone and email):</b> Tim Osborn, 206-437-7594, tosborn@microsoft.com
<b>Brief summary of bill and anticipated fiscal impact:</b> This bill would eliminate the requirement that leases for over one year must have the landlord’s signature acknowledged before a notary. (In practice, both landlord and tenant’s signatures are acknowledged.)  No fiscal impact.
<b>Brief statement of need:</b> Washington is one of only a handful of states with the notary requirement. For example, it’s not required in Oregon or California – or New York or Florida, as a sample. No other Washington contracts have this requirement, so multi-million dollar contracts are signed by the thousands without this, including real estate purchase and sale agreements. In our era of electronic signatures, this requirement is even more burdensome. This proposal would not affect the notary acknowledgment requirement for other documents, such as deeds, easements, deeds of trust or other recorded documents.
<b>Description of draft development:</b> (please provide detail)  Please see the attached proposed statutory language.
<b>How does the proposal meet requirements under GR 12.2?</b> (please explain)  The current acknowledgement requirement can be abused by the unscrupulous against the unsophisticated. That’s because in a lease with monthly rent that isn’t acknowledged becomes a month-to-month tenancy (absent proof of part performance, which is not easy to prove.) Example: someone starting a new retail or restaurant business signs an otherwise valid five year lease, but it’s not acknowledged before a notary. The landlord wants to get out of the lease and evict the tenant after a year, so they use the lack of a notary requirement to do that.
<b>Submittal Status:</b> 1. Has this proposal been submitted to the Committee before?                      Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <i>(If no, skip the remainder of this section, and move to the Stakeholder Work on the next page.)</i>  2. If yes, when was this proposal initially submitted to the Committee?

<sup>1</sup> For purposes of this document, “Section” means any WSBA Section, Committee, Division, or Council.  
Revised: October 2017

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3. Briefly, please provide the following:

(a) What concerns or questions were raised (including requests for additional information) by the Committee previously? No concerns were raised.

(b) How this proposal addresses those concerns, questions, or additional information requests made by the Committee? No concerns

(d) Is there additional information relevant to the status of the proposal? No

### Summary of Stakeholder Work

\*Please describe completed and ongoing activity with internal and external partners

<b>Referred to:</b>	<b>Feedback:</b>
Real Property Probate & Trust Section	Please include stakeholder positions on the proposal (e.g. support; oppose; concerns; neutral; or no response) and explain. Unanimously approved and supported by the RPPT Executive Committee
Washington Realtors	Approved without reservation

### Summary of Additional Stakeholder Input

\*Please describe other anticipated stakeholder feedback regarding the proposal.

We've had informal discussions with other experienced Washington real estate attorneys who represent both landlords and tenants, all of whom are in support.

There is no notary association we are aware of. Notaries are customarily not paid, have record keeping requirements, and could possibly expose themselves to liability for mistakes, so it is anticipated notaries would be happy.

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**RCW 59.04.010, Tenancies From Year to Year Abolished Except Under Written Contract.**

Tenancies from year to year are hereby abolished except when the same are created by express written contract. Leases may be in writing or print, or partly in writing and partly in print, ~~and shall be legal and valid for any term or period not exceeding one year, without acknowledgment, witness or seals.~~

**RCW 59.04.020, Tenancy From Month to Month – Termination.** No change.

**RCW 64.04.010, Conveyance and Encumbrances to be by Deed.**

Every conveyance of real estate, or any interest therein, and every contract creating or evidencing any encumbrance upon real estate, shall be by deed: PROVIDED, (1) The preceding requirement shall not apply to leases, and (2) That when real estate, or any interest therein, is held in trust, the terms and conditions of which are of record, and the instrument creating such trust authorizes the issuances of certificates or written evidence of any interest in said real estate under said trust, and authorizes the transfer of such certificates or evidence of interest by assignment by the holder thereof by a simple writing or by endorsement on the back to such certificate or evidence of interest or delivery thereof to the vendee, such transfer shall be valid, and all such assignments or transfers hereby authorized and heretofore made in accordance with the provisions of this section are hereby declared to be legal and valid.

**RCW 64.04.020, Requisites of a Deed.** No change.