

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #13
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HIGHLIGHTS

Legislative Deadlines

With only three weeks left in the 2007 Legislative Session, important deadlines are coming up next week. Monday is the deadline for 2nd Reading amendments in the House of Representatives; it is Tuesday for the Indiana State Senate. 3rd Reading deadlines are Tuesday for the House and Wednesday for the Senate. After these deadlines are met, conference committees will start. This is a busy time of year at the Statehouse and IBA Staff will continue to work hard to ensure our objectives for this session are met.

Property Tax Bill Passes Senate Tax Committee

Senator Luke Kenley (R-Noblesville) amended HB 1478 to include his proposal for property tax reform. The proposal passed out of the Senate Tax Committee with a 12-0 vote. The legislation will now move to the Senate Floor for debate. If the bill is enacted, it will be the largest overhaul of the Indiana property tax system since Governor Bowen's tax plan of 1973. Major components of Senator Kenley's amendment are:

- The creation of county review boards to approve, modify, or disallow taxpayer-financed capital projects which are in excess of \$2 million;
- Expand the authority of counties to apply local option incomes taxes to reduce local government dependence on property taxes;
- Increase state funding for K-12 education, child welfare and juvenile incarceration. Currently, these items are funded by the property tax;
- Eliminate current state subsidies for local property taxes by abolishing the Property Tax Replacement Credit;
- Increase state-funded homestead credits to reduce all homeowners' property taxes and increase current homestead deductions to provide further relief for lower valued homesteads, which are usually paid for by higher valued homesteads.
- Increase the "Circuit Breaker" to 3% for non-homestead properties while preserving a 2% circuit breaker for homesteads; and
- Create an appeal process and a state review board for civil units that are affected by the adjusted circuit breaker.

Although the bill did pass out of the committee unanimously, it does face a difficult road ahead to become law. The bill is contingent on the legislature passing the Senate version of HB 1835 (VanHaaften, D-Mt. Vernon), the legislation to allow slot machines at race tracks. This is because part of the funding for Senator Kenley's amendment comes from the slot revenue. IBA Staff will continue to monitor the bill's progress and keep you informed of its status.

Senate Committee Passes Amended Budget Bill

Since 2007 is a budget year, the primary goal of the Indiana Legislature is to pass a budget bill. The Senate Appropriations Committee made major headway in achieving that goal by passing out an amended version of HB 1001 (Crawford, D-Indianapolis). The major components of the amended bill include:

- Increasing total base appropriations by 3.9% in fiscal year (FY) '08 and 4% in FY '09;
- Fully reversing payment delays to local governments and higher educational institutions;
- Providing that Indiana's surplus balance increases by \$270 million- from \$886 million to 1.15 billion at the end of the biennium;
- Increases grant funding for full-day kindergarten by \$75 million over the biennium;
- Increases the overall school funding by 3.5% in FY '08 and 3.4% in FY '09;
- Funds the Senate property tax relief plan (HB 1478);
- Establishes the High Growth Business Incentive Fund, which was requested by Indiana Economic Development Corporation, at \$6 million per year;
- Funds the 21st Century R&D Fund at \$69 million over the next biennium;
- Appropriates Major Moves funding at the recommended levels;
- Provides a 5% Medicaid growth factor; and
- Funds the Governor's request for the Department of Corrections.

The amended version of the bill passed out of Committee with a party line vote of 7-4. It will now move to the Senate for full debate.

Legislative

SB 334 Restrictive Covenants Regarding Modular Homes (Riegsecker, R- Goshen)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=334> Provides that a deed restriction, restrictive covenant, or agreement recorded after June 30, 2007, may not prohibit or restrict the erection of an industrialized residential structure on real property. Provides that a deed restriction, restrictive covenant, or agreement that applies uniformly to all homes and industrialized residential structures in a subdivision may impose aesthetic compatibility requirements on an industrialized residential structure in the subdivision.

SB 334 was heard on Wednesday in the Indiana House of Representatives Committee on Small Business and Economic Development. It passed out of committee with a 5-2 vote. The amendment containing language about mechanics liens was not inserted into the bill. It now moves to the House floor for full debate.

SB 390 Mortgage Rescue Protection Fraud (Brodén, D-South Bend)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=390> Establishes notice requirements regarding foreclosures on real property. Provides that a homeowner may rescind: (1) contracts with foreclosure consultants; and (2) foreclosure reconveyance agreements. Provides that a homeowner may rescind a foreclosure reconveyance agreement at any time before midnight of the seventh business day after the homeowner's transfer of the interest in the real property that is the subject of the agreement. Requires a homeowner who rescinds: (1) a contract with a foreclosure consultant; or (2) a foreclosure conveyance agreement; to repay certain amounts advanced in connection with the contract or the agreement not later than 30 days after the date of rescission. Prohibits foreclosure consultants and foreclosure purchasers from certain actions. Requires foreclosure purchasers to: (1) ensure that title to real property is reconveyed to the homeowner in a timely manner if reconveyance is required under a foreclosure reconveyance agreement; or (2) pay the homeowner an amount equal to 82% of the net proceeds from any resale of the property, if the property is sold within 18 months of entering into the agreement. Requires a foreclosure purchaser to make a detailed accounting of the basis for the amount of payment made to the homeowner if the real property is resold within 18 months. Provides that a violation of the statute concerning mortgage rescue protection fraud is a deceptive act that is actionable by the attorney general. Allows a homeowner to bring an action for damages for a violation of the mortgage rescue protection fraud laws. Allows a court to award treble damages for a willful or knowing violation of the mortgage rescue protection fraud laws. Requires the Indiana housing and community development authority to maintain a list of nonprofit organizations that offer counseling or advice to homeowners in foreclosure or loan defaults. Excludes certain banks, trust companies, governmental entities, attorneys, and other persons from the law. Makes a violation of the mortgage rescue protection fraud laws a Class A misdemeanor.

HB 1525 New Home Construction and Homeowner Construction (Murphy, R-Indianapolis)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1525> Provides that after June 30, 2007, a builder may not enter into a home construction contract with a prospective home buyer unless the builder first gives the prospective home buyer a written estimate of the property taxes that: (1) will be owed by the prospective home buyer on the new home; and (2) are based on an assessment made on the first assessment date after the construction of the new home is complete. Specifies that the required estimate may not be based on an assessment of unimproved real estate. Requires the Indiana housing and community development authority (authority) to prescribe a form to be used by builders in making the required disclosure. Defines an "at

risk home buyer" as a person who: (1) has a credit score that is less than 620; and (2) seeks to obtain a home loan from a creditor. Requires the authority prepare and make available to creditors home ownership educational materials for use by at risk home buyers. Provides that after June 30, 2007, a creditor may not enter into a home loan with an at risk home buyer unless the creditor first gives the at risk home buyer the educational materials prepared by the authority.

SB 390 was heard this week in the House Committee on Financial Institutions. Representative Murphy attempted to amend SB 390 to include his HB 1525's language regarding the property tax estimate. However, the amendment was tabled due to concerns that committee members had regarding the legislation. IBA Staff will continue to watch for the property tax estimate language to be brought back during conference committees.

SB 205 Environmental Matters and Archeology (Gard, R- Greenfield)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=205> Provides that a person that: (1) holds a valid solid waste landfill construction permit that authorizes construction for a facility that has not been substantially developed; and (2) has not commenced construction within five years after the date of the permit or another period established by rule or statute; must apply for a new construction permit and meet the requirements of all applicable environmental laws existing at the time the new permit is sought. Provides that a person that: (1) holds a valid solid waste landfill construction permit that authorizes construction at an operating facility; and (2) has not commenced construction within five years after the date of the permit or another period established by rule or statute; must meet the requirements of all applicable environmental laws existing at the time construction is substantially commenced. Redefines "artifact" and changes the date used in determining whether an object or feature is an artifact. Redefines "burial ground" to include certain historic sites. Redefines "plan" to include a plan for excavation of ground related to construction. Exempts qualified professional archeologists who conduct phase 1 archeological surveys from certain archeological restrictions. Establishes criminal penalties for certain actions that disturb human remains. Requires a person disturbing ground to use reasonable care and diligence to determine if the ground that may be disturbed is within 100 feet of a cemetery or burial ground. Requires a person who disturbs buried human remains or artifacts to cease disturbing the remains or artifacts and the surrounding area within 100 feet and makes it a Class A infraction to fail to do so. Includes excavating or covering over the ground a prohibited activity within 100 feet of the limits of a cemetery or burial ground. Establishes certain requirements for development plans and archeological plans. Applies certain notice requirements to a person who disturbs burial grounds. Makes reports concerning the location of historical or archeological sites confidential under some circumstances. Allows certain persons to accompany a conservation officer to investigate a violation of historic preservation and archeology law. Establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with an approved archeological or development plan. Allows a court to order restitution for certain costs related to the

violation of historic preservation and archeology law. Makes it a Class D felony to possess looted property and a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. Provides that a disinterment under a plan approved by the department of natural resources is exempt from other disinterment procedures. Requires a property owner to identify in a residential real property sales disclosure form any part of the property that was subject to surface mining at any time during the 20 years that immediately precede the closing date.

HB 1763 Archeology (Pierce, D-Bloomington)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1763> Redefines "artifact" and changes the date used in determining whether an object or feature is an artifact. Redefines "burial ground" to include certain historic sites. Redefines "plan" to include a plan for excavation of ground related to construction. Exempts qualified professional archeologists who conduct phase 1 archeological surveys from certain archeological restrictions. Establishes criminal penalties for certain actions that disturb human remains. Requires a person disturbing ground to use reasonable care and diligence to determine if the ground that may be disturbed is within 100 feet of a cemetery or burial ground. Requires a person who disturbs buried human remains or artifacts to cease disturbing the remains or artifacts and the surrounding area within 100 feet; makes it a Class A infraction to fail to do so. Includes excavating or covering over the ground a prohibited activity within 100 feet of the limits of a cemetery or burial ground. Establishes certain requirements for development plans and archeological plans. Applies certain notice requirements to a person who disturbs burial grounds. Makes reports concerning the location of historical or archeological sites confidential under some circumstances. Allows certain persons to accompany a conservation officer to investigate a violation of historic preservation and archeology law. Establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with an approved archeological or development plan. Allows a court to order restitution for certain costs related to the violation of historic preservation and archeology law. Makes it a Class D felony to possess looted property and a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. Provides that a disinterment under a plan approved by the department of natural resources is exempt from other disinterment procedures. Makes conforming changes. Makes an appropriation.

SB 205 was heard this week in the House Committee on Environmental Affairs. The bill was amended to include HB 1763. IBA Staff has concerns with the language as it currently reads. We are working with both House and Senate Sponsors of the legislation to ensure our concerns regarding the language are addressed. We will keep you informed of the status of SB 205.

SB 432 Environmental Fees (Gard, R- Greenfield)

<http://www.in.gov/legislative/bills/2007/SB/SB0432.1.html> Modifies various environmental fees.

SB 432 was heard in the House Ways and Means Committee this week; however a vote was not taken due to concerns committee members had over the increase in fees and the lack of demonstrated need for the fees.