

INDIANA BUILDERS ASSOCIATION  
Legislative and Regulatory Report #17  
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## **HIGHLIGHTS**

The Legislative Report will be sent out every two weeks now that the Indiana General Assembly has adjourned for the year.

### **IBA's Build-PAC Tournament of Champions**

IBA's annual Build-PAC golf tournament is set this year for May 22<sup>nd</sup> at the Battle Ground Golf Club in Lafayette. With limited time left until this great outing, it is important that you register today for a foursome or a sponsorship! Attached is a link to IBA's website where you can find a registration form or feel free to call Brooke at IBA to sign up at 800-377-6334. <http://www.buildindiana.org/GolfOuting.htm>

### **Construction Industry Legal Issues Conference**

IBA, in partnership with Locke Reynolds, LLP, is hosting its first "Construction Industry Legal Issues Conference" on June 19<sup>th</sup> at the HH Gregg Conference Center in Indianapolis. This is a must attend event for all building industry professionals to stay informed of legal issues regarding their industry. The Conference will last from 12-4 and includes a lunch. Costs to attend are \$147 for the first person from each company and \$117 for each additional person. If you would like to register for this new event, or if you have any questions, please contact Brooke at the IBA Office at (800)377-6334.

## **LEGISLATIVE**

### **BILLS THAT PASSED DURING THE 2007 GENERAL ASSEMBLY**

#### **SB 500 Tax Procedures and Administration Changes (Kenley, R-Noblesville)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=500> Makes various tax procedures and administration changes and adds language regarding the Affordable Housing Fund.  
<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1351>

SB 500 passed the Indiana General Assembly on Sunday night with a vote of 49-1 in the Senate and a 53-46 vote in the House of Representatives. The final version of the affordable housing section of the bill allows county fiscal bodies to adopt an ordinance authorizing a recording fee of \$2.50 for the first page and \$1 for each additional page. The bill specifies that 60% of the fee shall be deposited in the affordable housing funds in the county (or the housing trust fund in Marion County) and that the remaining percentage of the fee shall be distributed to the treasurer of state for deposit into the affordable housing and community development fund. The legislation also provides that money in the state affordable housing and community development fund may not be used for rent supplements.

### **HB 1478 Taxation (Kuzman, D-Crown Point)**

<http://www.in.gov/legislative/bills/2007/EH/EH1478.2.html> taxation matters.

- Provides an income tax option for local governments;
- Waters down the “circuit breaker” provision contained in current law by extending protection against property taxes that exceed two percent of their grossed value to include not only residential owners, but also property owners, including businesses, in 2010; and
- Raises the circuit breaker to three percent in 2010 for non-residential properties.

The final conference committee report for HB 1478 passed the Indiana House of Representatives with a vote of 74-25. It passed the Indiana Senate with a final vote of 47-3. The legislation is set to go into effect on July 1, 2007.

### **HB 1001 State Budget (Crawford, Indianapolis)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1001> State Budget.

- Holds overall spending to 4% totals;
- Eliminates payment delays to local units of government and higher education;
- Included money for optional full day kindergarten;
- Provided a 3.8% increase for K-12 education;
- Funded Medicaid growth and corrections;
- Left a budget surplus of more than \$800 million;
- Provided property tax rebate provisions; and
- Repealed the “investment deduction” enacted two years ago.

The final conference committee report for the Budget passed out of the Indiana House of Representatives with a strict party line vote of 51-49. The legislation passed the Indiana Senate with a 41-9 vote. The Budget will go into effect on July 1, 2007.

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

<http://www.in.gov/apps/lsa/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 passed the General Assembly with a final vote of 45-2. The provision that helps to eliminate economic impact analysis on building codes, which IBA Staff worked to insert as a second reading amendment, remained in the legislation. The Governor signed the bill into law on May 4<sup>th</sup>; therefore the law will go into effect July 1, 2007.

#### **SB 490 Registration of Interior Designers (Kruse, R-Auburn)**

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=490> Changes the board of registration for architects and landscape architects to the board of registration for architects, landscape architects, and interior designers (board). Adds an interior designer to the board. Updates language concerning the board's operation. Specifies the board's powers. Requires the board to register interior designers. Establishes the requirements for registration and fees. Requires the board to deposit the fees into the registered architects, registered land surveyors, and registered interior designers investigative fund. Provides that a person who recklessly, knowingly, or intentionally: (1) uses the title "registered interior designer" or any title designation sign, card, or device indicating the person is a registered interior designer if the person does not hold a certificate of registration; or (2) is ineligible for continued registration because there is a civil judgment entered against the person for certain breaches of the standard of care in the practice of interior design; commits Class B misdemeanor.

SB 490 passed out of the House of Representatives with a vote of 62-34 and out of the Indiana Senate with a final vote of 43-5. The bill was set to be signed by Governor Daniels; however, he vetoed the bill. Therefore the legislation will not go into effect.

#### **HB 1324 Valuable Metal Dealers (Crooks, D-Washington)**

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1324> Adds copper, copper alloy, brass, aluminum, or aluminum alloy that is readily used or useable on residential or commercial property to the definition of "valuable metal." Requires valuable metal dealers to make and retain copies of government issued photographic identification used to verify the identity of persons from whom the dealers purchase valuable metal. Provides that a valuable metal dealer may not accept a damaged or an undamaged metal beer keg if: (1) the keg is clearly marked as the property of a brewery manufacturer; or (2) the keg's identification markings have been made illegible. Requires the superintendent of the state police department to prepare and distribute a list to each valuable metal dealer describing the valuable metal products of interest for use on

residential or commercial property. Removes certain notification requirements for valuable metal dealers.

HB 1324 passed the Indiana Senate with a final vote of 47-3. It passed the House of Representatives unanimously with a vote of 87-0. The legislation will go into effect on July 1, 2007.

### **HB 1753 Mortgage Foreclosure Counseling (Summers, D-Indianapolis)**

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1753> Authorizes the Indiana housing and community development authority (authority) to establish a program to provide free mortgage foreclosure counseling and education to homeowners who have defaulted on or are in danger of defaulting on the mortgages on their homes. Provides that the program may include a central toll free telephone number that homeowners may call to receive mortgage foreclosure counseling and education. Authorizes the authority to award grants for the training of counselors who will provide mortgage foreclosure counseling and education. Provides that the authority may establish standards for the certification of counselors. Provides that the authority may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the program. Requires the authority to submit a report to the legislative council annually.

HB 1753 passed the Indiana Senate with a final vote of 44-4 and the concurrence in the House of Representatives passed with a 94-3 vote. The legislation is set to be effective upon passage.

## **BILLS THAT DIED DURING THE 2007 GENERAL ASSEMBLY**

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

<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.

*HB 1525 passed the House of Representatives earlier in the Session, but did not pass the Indiana Senate. Proponents of the legislation plan to address the issue in a summer study committee.*

**HB 1763 Archeology (Pierce, D- Bloomington) *DIED***

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1763> Defines "artifact" as an object made by a human before December 31, 1870. 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.

*IBA worked with the author of the bill to work out a compromise on the language. However the bill was not inserted into a final conference committee report and the issue died for the session. IBA will be working with interested parties over the summer to address the issue.*

**SB 1 Indiana Commerce Connector and Illiana Expressway (Wyss, R- Fort Wayne) *DIED***

<http://www.in.gov/legislative/bills/2007/SB/SB0001.2.html> For purposes of the statute concerning tollways, permits the designation of the Indiana Commerce Connector, the Illiana Expressway, or both (instead of a part of Interstate Highway 69) as a tollway.

*SB 1 passed the Senate with a vote of 36-13. The legislation did not pass the House and the Illiana portion will be studied for feasibility.*

**SB 432 Environmental Fees (Gard, R- Greenfield) *DIED***

*Rule 5 notice of intent fees would have gone from \$100 to \$400 under the proposed legislation and certain wetland permit fees would be instituted as well.*

**HB 1024 Employee's Right to Work (Torr, R- Carmel) *DIED***

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1024> Makes it a Class A misdemeanor for an employer to require an individual to: (1) become or remain a member of a labor organization; (2) pay dues, fees, or other charges to a labor organization; or (3) pay to a charity or another third party an amount that represents dues, fees, or other charges required of members of a labor organization; as a condition of employment or continuation of employment. Establishes a private right of action for violations or threatened violations.

**HB 1101 Flood Control (Micon, D-West Lafayette) *DIED***

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1101> Requires the natural resources commission to direct the department of natural resources to prepare a statewide flood risk and flood damage assessment. Places a limit on the maximum amount of fill material that may be placed in a floodway, subject to certain exceptions. Makes violation of the limit a Class B infraction. Specifies the standards of review for an application for a permit for certain obstructing activities in a floodway. Allows summary denial of a permit application in certain circumstances. Prohibits a person from placing certain materials in a floodway as fill or for bank stabilization. Places restrictions on the use of flood conveyance channels.

*HB 1101 failed to receive a vote in the House Committee on Natural Resources.*

**HB 1163 Subcontractors Liens (Orentlicher, D-Indianapolis) *DIED***

<http://www.in.gov/legislative/bills/2007/IN/IN1163.1.html> Provides that a contractor must pay all subcontractors within five business days after receiving payment from a homeowner or builder. Provides that a builder must disclose to a purchaser all subcontractors used in new home construction. Requires a contractor to provide notice to all subcontractors when the contractor has been paid by a homeowner or builder. Prohibits a subcontractor from filing a lien against a property if the primary contractor has received full payment for the contract. Allows a subcontractor to file an action against a prime contractor to recover any unpaid claims due under a contract between the prime contractor and the subcontractor.

*HB 1163 died in committee due to a lack of quorum.*

**HB 1178 Growth and Development Study Committee (Dvorak, D-South Bend) *DIED***

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1178> Establishes a two year growth and development interim study committee made up of members of the general assembly. Directs the committee to examine incentives for growth and development and to study the impact of growth and development on taxes, transportation funding, energy policy, and the environment.

**HB 1325 Homeowners Associations (Grubb, D- Covington) *DIED***

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1325> Applies the following to a homeowners association (association) established after June 30, 2007: (1) Requires an association to maintain a current roster of all members of the association (members). (2) Requires an association to prepare an annual budget. (3) Requires the board of directors of an association (board) to address an item of business if more than 50% of the members petition the board to address the item. (4) Prohibits a board from entering into certain contracts. (5) Provides that the governing documents of an association must include grievance resolution procedures that provide for the final and binding arbitration of disputes. (6) Provides that the governing

documents of an association must allow the termination of the association if at least 70% of the members agree to the termination. (7) Specifies that a penalty imposed by an association against a member is not enforceable as a lien against any real property owned by the member. (8) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than two years. (9) Provides certain defenses to a member if the association brings a civil action against the member involving an act in furtherance of the member's right of petition or free speech. Allows an association established before July 1, 2007, to elect to be governed by this statute.

**HB 1603 Fees for New Construction (Cherry, R-Greenfield) *DIED***

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&request=getBill&docno=1603> Imposes an interim property fee on a newly constructed homestead as of the time the homestead is complete and before it is subject to property tax. Distributes revenue from the interim property fee in the manner that property taxes are distributed, but reduces property tax levies by the amount of the fees. Imposes an education impact fee on newly constructed homesteads and newly constructed multifamily residential buildings to be paid by the purchaser at the time of transfer of title. Requires deposit of impact fee revenue in the school capital projects fund.

**HB 1812 Energy Efficient Buildings (Pierce, D-Bloomington) *DIED***

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1812> Requires a public works contract that is for the construction of a public building or structure and is entered into after December 31, 2007, to require that the building or structure must meet at least the silver rating under the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or an equivalent rating system, such as a Two Globes rating system under the Green Building Initiative's Green Globes rating system. Requires a public works contract that is for the reconstruction, repair, alteration, or retrofitting of a public building or structure and is entered into after December 31, 2007, to require that the building or structure must meet at least the standards for existing buildings under the LEED rating system or an equivalent rating system. Provides that for state agency purchases, there is a 5% price preference for any electronic office equipment, including computers, monitors, printers, scanners, fax machines, and copiers, that are compliant with the United States Environmental Protection Agency Energy Star ratings. Allows a county fiscal body to adopt an ordinance providing a deduction from the assessed value of a newly constructed building or a rehabilitated building that is certified to meet the LEED rating system or an equivalent rating system. Requires the ordinance to specify the amount of the deduction. Allows the Indiana economic development corporation to adopt rules allowing the corporation to give priority to economic development projects that meet or surpass the standards of the leadership in energy and environmental design ratings systems developed by the U.S. Green Building Council or the Green Building Initiative.

*HB 1812 was not brought back before the House of Representatives prior to the deadline; therefore died due to a lack of constitutional majority after an initial vote of 49-48.*

## **NEWS**

### **Increase in New-Home Sales**

A 2.6% increase in new-home sales in March only partially offset the huge declines experienced during the past two months. It also does not indicate a near-term end to the weakness in housing markets. Currently, builders are reporting direct impacts on both sales and cancellations as potential buyers are having difficulty with mortgage credit or are unable to sell their existing homes due to subprime lending markets. Inventory of new homes sales increased in March to 545,000 units, which is equivalent to a 7.8 months supply at the current sales pace. 33% of the inventory were completed homes, while units still under construction represented 50% of inventory, and units for sale that were permitted, but not yet started, represented approximately 17% of the inventory level. The average amount of time that completed homes were on the market as of March was about 5.6 months, which was up from 5.2 months in February. NAHB Chief Economist, David Seiders projected that the tightening of mortgage conditions will continue to have an impact on the housing market, and it is difficult to predict its future.

### **NAHB's Legislative Conference in June**

NAHB's Legislative Conference is held on June 6<sup>th</sup> this year in Washington D.C. This annual event is an ideal time for you to meet and share your housing-related concerns to your Congressional members. A high attendance from association members is particularly important this year due to the turmoil in the subprime mortgage sector and its potential effects in the housing market. It is imperative to remind members of Congress that housing must remain a top national priority! To register for the conference or for more information, please contact Jessica Boyce from NAHB at 800-368-5242 ext. 8334.

### **Housing**

According to the Mortgage Bankers Association, the number of mortgage loan applications increased 3.6% last week from the week before. Applications were also up over 18.2% from the previous year. 43.4% of loans were accounted to refinancings, which is down slightly from the previous week. Interest rates on a 30-year fixed mortgage averaged 6.13%, compared to the prior week at 6.22%. The average interest rate for a 15-year loan decreased to 5.82% from 5.92%.