

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #3
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Ways to Get Involved

- Read the weekly legislative report (during session, bi-weekly out of session) to stay informed on legislative action
- Get to know your legislators and meet with them regularly at home and by visiting them at the Statehouse
- Contact your legislators when asked to encourage them to support or oppose particular legislation.
- Attend the Legislative Reception being held in conjunction with the Indiana Midwest Builders Convention on January 22nd from 6:00-7:30 p.m. in the Indiana Convention Center
- Register with voterVoice, IBA's grassroots lobbying tool to directly communicate with your elected officials. Visit <http://www.buildindiana.org/VoterVoice.htm>

HIGHLIGHTS

NEW HOME SALESPEOPLE LICENSING TO BE HEARD IN COMMITTEE

Senate Bill 275 which deals with licensing of new home salespeople will be heard in committee on Wednesday. Specifically, the bill requires a person be licensed in Indiana as a real estate broker or salesperson if they conduct an open house in a home listed for sale or conduct an open house or show a model home in a neighborhood or subdivision in which similar houses are or will be listed for sale in Indiana. IBA is opposed to this legislation and working to defeat the bill.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&session=1&request=getBill&docno=275>

MODEL HOME ACT CLEARS FIRST HURDLE

The Model Home Act which provides a property tax exemption on the structure of three models or speculative homes for builders was unanimously approved by the House Ways and Means Committee. Members of the committee praised the intent of House Bill 1164 and raised several questions which will be addressed as it moves to the full House next week. IBA encourages its members to contact State Representatives and ask them to vote YES on HB 1164.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1164>

STATE CONSTRUCTION REGISTRY PASSES SENATE COMMITTEE

The State Construction Registry to house mechanics liens filed online, unanimously passed the Senate Economic Development and Technology bill earlier this week. IBA testified in support of Senate Bill 275 issue and is currently working with title companies and lenders to address any concerns they may have.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=275>

ARCHEOLOGY LEGISLATION TO BE CONSIDERED IN COMMITTEE NEXT WEEK

House Bill 1129, dealing with burial grounds will be heard in the House Natural Resources Committee next Tuesday. IBA has been working with the author of the bill, Representative Matt Pierce (D-Bloomington), and will closely monitor any changes to the bill.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1129>

GREEN BUILDING LEGISLATION TO BE CONSIDERED NEXT WEEK

House Bill 1280 dealing with Green Building will be heard in committee next Wednesday. The bill requires public works contracts to meet at least the silver rating under LEED or an equivalent rating system that is accredited by the American National Standards Institute. IBA is opposed to any effort to mandate an alternative standard such as LEED for residential or commercial buildings.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1280>

PROPERTY TAX PLAN CLEARS HOUSE COMMITTEE

The House Ways and Means Committee voted unanimously to approve Governor Mitch Daniels property-tax reform plan, sending it to the full House of Representatives. House Bill 1001 was approved without discussion on any of the 48 amendments that would have been filed for the bill and will instead debate amendments on the House floor next week. Governor Daniels testified in front of the committee earlier in the week, fielding at least 50 questions from committee members.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1001>

LEAD BILL HEARD IN COMMITTEE

The Senate Health and Provider Services Committee heard Senate Bill 143 targeting lead poisoning in children. The bill would, among other things, create the Lead-Safe Housing Advisory Council, require an annual assessment for lead in certain daycares, require that apartments test certain units for lead before re-renting them, and places requirements on retailers. IBA has met with the bill's author, Senator Beverly Gard (R-Greenfield) and several concerns were addressed in an amendment adopted in committee.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=143>

EMPLOYEE MISCLASSIFICATION LEGISLATION PASSES COMMITTEE

The House Labor and Employment Committee passed House Bill 1269 this week which focuses on employee misclassifications. The legislation would require all sub-contractors on a construction or remodeling site to be employees of the contractor, eliminating independent workers. Currently, Indiana recognizes the Internal Revenue Services Code to determine whether a worker should be considered an independent worker or employee. This bill is part of a nationwide push of the unions as a way to build membership and harass nonmembers. Representatives David Niezgodski (D-South Bend), Dennis Tyler (D-Muncie), John Bartlett (D – Indianapolis), Ron Herrell (D-Kokomo), Clyde Kersey (D –Terre Haute), Greg Simms (D-Valparaiso), and Russ Stilwell (D-Boonville) supported the bill. Representatives Dan Leonard (R -Huntington), Matt Bell (R-Avilla), Eric Gutwein (R -Rensselaer), and Mike Ripley (R -Monroe) voted against it. IBA is opposed to the bill and working to kill it in the Senate. The bill now moves on to the House floor where it will be further debated.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1269>

ANNEXATION BILL APPROVED BY COMMITTEE

Senate Bill 114, eliminating forced annexations and making tough changes to the waiver portion passed out of the Senate Local Government and Elections Committee this week. The bill provides that a waiver or release of the right of remonstrance against annexation: (1) is not a covenant that runs with the land or is binding on the successors in title to the real property; and (2) expires three years after the date the waiver or release is executed. IBA has voiced concerns on the waiver portion and is working to have concerns addressed.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=114>

REFERENDUM BILL READY FOR FINAL ACTION IN THE SENATE

Senate Bill 18 would require referendums be held on most major building projects, including schools, is eligible for a final vote next week in the Senate. The bill was amended in committee to require signatures on petitions of 100 voters or 5 percent of the registered voters in a taxing unit, whichever is lower. The change was in attempt to allow projects which are not controversial and had no initial opposition. The bill was also changed to allow school districts with an average growth of 4 percent over the past five years to avoid referendums on all its projects by getting the approval of the county council.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=18>

GREAT LAKES COMPACT PASSES FULL SENATE, MOVES TO HOUSE

The Great Lakes Compact, Senate Bill 45, passed the Senate 47-0 this week and now moves to the Senate. Representative Scott Pelath (D-Michigan City) has a similar version currently moving in the House.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=45>

NEWS

GOVERNOR DELIVERS STATE OF STATE SPEECH FOCUSING ON PROPERTY TAXES

Governor Daniels delivered his fourth state of the state speech Tuesday evening focusing on property tax reform while highlighting a number of his accomplishments in office. The Governor welcomed changes to his plan which is contained in House Bill 1001 but stressed the importance of including four key items: provide immediate property tax relief to homeowners, permanently cap property tax bills, reform property assessment and add restraints on local spending.

MIDWEST GROWTH STILL SLUGGISH, FED SAYS

The Federal Reserve Bank said the Midwestern economy continued a pattern of slow growth in December and early January. The report says home construction continued to decline and nonresidential construction began to slow. According to the report, a modest expansion of manufacturing continued, business lending stayed strong and wage pressures softened.

BUSH FAVORS TAX BREAKS IN STIMULUS PLAN

The White House and Congress raced toward emergency steps Thursday to rescue the national economy from a possible recession, including tax rebates of at least \$300 a person - and maybe as much as \$800. Federal Reserve Chairman Ben Bernanke endorsed the idea of putting money into the hands of those who would spend it quickly and boost the flagging economy. Bernanke was hopeful the country could skirt a dangerous downturn. "We're not forecasting recession but, rather, at this point, slow growth," he told lawmakers. Still, the toll of the housing and credit debacles will be felt for some time, he added. "We believe we'll see below-trend growth certainly in 2008 and probably early into 2009, as well."

BUILDER CONFIDENCE REMAINS UNCHANGED

Builder confidence in the market for new single-family homes was virtually unchanged for a fourth consecutive month in January as mortgage-market problems and inventory issues continued to pose challenges, according to the latest NAHB/Well Fargo Housing Market Index (HMI). The HMI rose a single point to 19 this month following a downwardly revised 18 reading in December and 19 readings in both October and November of 2007.

SINGLE-FAMILY HOUSING STARTS DECLINE

Single-family housing starts declined 2.9 percent to a seasonally adjusted annual rate of 794,000 units in December as home builders continued to ratchet down production in an effort to reduce inventories of new homes on the market, according to newly released data from the U.S. Commerce Department. Meanwhile, a sharp reduction in the volatile multifamily sector contributed to an overall 14.2 percent decline in nationwide housing starts for the month to a one million-unit rate, the lowest since May of 1991.

BILLS OF INTEREST

HB 1080 Homeowner Associations (Grubb D-Covington)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1080>

Applies the following to a homeowners association (association) established after June 30, 2008: (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 that must be approved by at least 40% of the members. (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 without the approval of the members. (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 90% of the members agree to the termination. (7) Specifies that an unpaid regular annual assessment imposed by a homeowners association on a member is enforceable as a lien on real property owned by the member and all other unpaid assessments are not enforceable as a lien on real property owned by a 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 one year. (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, 2008, to elect to be governed by these provisions.

HB 1091 Growth and Development Study Committee (Dvorak D-South Bend)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=1091>

Growth and development study committee. Establishes a two year growth and development interim study committee. 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.

SB 13 Standardized Public School Building Plans (Hershman R-Monticello)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=13>

Standardized public school building plans. Requires the department of education, in cooperation with the building law compliance officer of the department of homeland security, to develop and update standard plans and specifications for the construction of a school building, an athletic facility, or a building relating to the administration of a school corporation. Requires the department to make these plans available to school corporations. Requires a school corporation to acquire standard plans before building a facility and determine whether to use the standard plans. Provides that a school corporation may use nonstandard plans only if the governing body

adopts a resolution finding that standard plans do not serve the needs of the school corporation and the community and stating the reasons standard plans do not meet the needs of the school corporation and the community. Requires the county board of tax and capital projects review, the school property tax control board, and the department of local government finance to approve the use of nonstandard plans. Provides that a contract for professional services relating to construction of a facility must provide that any completed plans developed under the contract become the joint property of: (1) the person providing the professional services; (2) the school corporation; and (3) the state; and may be used by the state and any school corporation without payment to the person providing the professional services.

SB 89 Regulation of Loan Brokers (Lawson R-Danville)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=89>

Regulation of loan brokers. Specifies that evidence of compliance with the licensing and registration requirements for loan brokers, originators, and principal managers may include a national criminal history background check by the Federal Bureau of Investigation (FBI). Specifies that the securities commissioner (commissioner) shall require each: (1) equitable owner of a loan brokerage business; and (2) applicant for registration as an originator or a principal manager; to submit fingerprints for a national criminal history background check by the FBI. Prohibits the commissioner from releasing the results of a national criminal history background check to a private entity. Allows the commissioner to designate a multistate automated licensing system and repository (system) as the sole entity responsible for processing applications for: (1) licenses for loan brokers; and (2) certificates of registration for originators and principal managers. Allows the commissioner to check the qualifications and background of each: (1) equitable owner of a loan brokerage business; and (2) applicant for registration as an originator or a principal manager; by accessing the system. Specifies that a loan broker is subject to the state statute requiring disclosure of a breach of the security of any records: (1) maintained by the broker; and (2) containing the personal information of a borrower or prospective borrower. Prohibits loan brokers, originators, and principal managers from disposing of unencrypted, unredacted personal information with respect to borrowers or prospective borrowers without first taking certain actions to render the personal information illegible or unusable.

The legislation passed out of committee unanimously and IBA continues to closely monitor any changes to this legislation.

SB 285 Building Standards (Breax D-Indianapolis)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=285>

Building standards. Requires a public works contract that is for the construction of a public building or structure and is entered into after December 31, 2008, 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, 2008, 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 LEED rating system or the rating system of the Green Building Initiative.

IBA is opposed to this legislation and is working to kill the bill.

SB 335 Illegal Alien Matters (Delph, R-Carmel)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=335>

Illegal alien matters. Requires the attorney general to: (1) investigate a complaint that an employer knowingly employed an unauthorized alien; (2) verify the work authorization of the alleged unauthorized alien with the federal government; (3) notify United States Immigration and Customs Enforcement, local law enforcement agencies, and the appropriate prosecuting attorney; and (4) maintain certain records of violation orders. Requires prosecuting attorneys to file actions against employers for knowingly employing unauthorized aliens after December 31, 2008. Requires a court to: (1) hold a hearing and make a determination of the action on an expedited basis; (2) if a person knowingly employs an unauthorized alien, order the employer to terminate the employment of unauthorized aliens, order the employer to file a signed affidavit, and place the employer on probation for three years; (3) order agencies to suspend all licenses held by the employer for the operation of the business location if the employer fails to file a sworn affidavit; (4) for a second violation during the probationary period, order agencies to revoke all licenses held by the employer for the operation of the business location; and (5) send copies of orders to the attorney general. Provides that a court may: (1) suspend an employer's licenses if an employer knowingly employs an unauthorized alien; and (2) consider only the federal government's verification or status information in determining whether an individual is an unauthorized alien. Establishes: (1) a rebuttable presumption that an employer did not knowingly employ an unauthorized alien if the employer verified the employment authorization of an individual through the federal pilot program; and (2) an affirmative defense if the employer complied in good faith with the federal employment verification requirements. Prohibits a

governmental body from enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Allows a person to bring an action to compel a governmental body to comply with the prohibition. Various other provisions.

The bill was heard in committee this past week but no vote was taken. IBA raised a number of concerns with the legislation and has been working with the author of the bill to suggest changes.