

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #12
March 18, 2008

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HIGHLIGHTS

INDIANA GENERAL ASSEMBLY WRAPS UP WORK

The Indiana General Assembly adjourned for the session on March 14th, capping off one of the more interesting and historic sessions in recent memory. Legislators were able to work in a cooperative nature to pass HB 1001, the property tax reform proposal and SJR 1, property tax constitutional caps. IBA lobbyists also helped pass the model home act for builders, a critical piece of legislation considering the status of the home building industry. A complete wrap-up of legislation impacting your industry is below.

IBA's Governmental Affairs Team will be dealing with numerous issues over the summer with interim study committees and working with Legislators on issues sure to come up in the next session of the Indiana General Assembly.

Now that the Indiana General Assembly has concluded its work, the IBA Legislative & Regulatory Report will be delivered to your in-box every two weeks. Next report: March 28, 2008.

LEGISLATIVE

PROPERTY TAX REFORM PASSES INDIANA GENERAL ASSEMBLY

- Increases sales tax from 6 percent to 7 percent on April 1.
- Provides \$620 million in additional homestead credits this year, \$140 million in new homestead credits in 2009 and \$80 million in 2010. Homeowner bills would be reduced by about 30 percent on average statewide this year over last year's bills, and nearly 28 percent lower in 2010 over last year's bills.
- Phases in caps in property tax bills. When fully implemented in 2010, homeowner's tax bills would be limited to 1 percent of their homes' assessed value (AV), with 2 percent limits on rental property and agricultural land as well as 3 percent on residential property.
- Allows counties to adopt new local option income taxes.
- Duties of township assessors in townships with less than 15,000 parcels would be transferred to the county auditor.
- Referendums:
 - Required for future debt if it falls outside the caps, and exempts existing debt in Lake and Saint Joseph counties from counting against the caps.

- Required for building projects for elementary and middle schools that cost more than \$10 million. Same requirement for high school construction projects costing more than \$20 million.
- Required for local government projects that cost more than \$12 million or 1 percent of the taxing unit's assessed value, if at least 5 percent of the unit's registered voters or 100 voters of property taxes petition for the referendums.

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

MODEL HOME ACT SIGNED BY GOVERNOR

House Bill 1164, the Model Home Act, was signed into law by Governor Daniels on March 13th. The final version of the bill allows for a 50% property tax deduction on the structure of a model or spec home for up to three years or until sold. The bill also provides that the model or spec cannot be used as a primary office by the builder and limits the deduction to three properties at a time.

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

PROPERTY TAX CONSTITUTIONAL CAP AMENEDMENT PASSES

Senate Joint Resolution 1(SJR 1), the proposal to place the 1, 2 and 3 percent circuit breaker tax caps into the Indiana Constitution, passed the Indiana House on a 79-20 vote and the Indiana Senate on a 40-7 vote on March 14th. SJR 1, if passed by the Indiana General Assembly in 2009 and then approved by voters, would put the tax caps in the state's constitution. SJR 1 was amended in conference committee to provide a different circuit breaker tax cap calculation methodology for Lake and St. Joseph Counties than would apply to Indiana's other counties.

<http://www.in.gov/legislative/bills/2008/RES/SJ0001.3.html>

EMPLOYEE CLASSIFICATION BILL DIES

House Bill 1269, the Employee Classification bill, died after it failed to receive a hearing in the Senate. The bill assumed almost all workers on a project are employees of the contractor. HB 1269 implements a vague and confusing definition of "independent contractor" that significantly undercuts traditional methods of defining "subcontractor" status; which involve a more thorough evaluation of the relationship between the worker and the employer. While no legislation was passed directly addressing the issue, there was a resolution passed in the Senate to study the issue in summer study committee.

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

IMMIGRATION BILL DIES IN LAST HOURS OF SESSION

The Immigration bill underwent multiple changes throughout the process from the Senate version which would have implemented a "three-strikes and you are out" approach for companies who hire illegal aliens to the House version which allowed an exemption for employer's acting in good faith. During the final week of session, legislators could not reach a compromise and the bill died from lack of action. IBA worked on the legislation

throughout session, offering several suggestions to ensure that the home building industry was not negatively impacted and will continue the dialogue with interested legislators.

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

NO ACTION TAKEN ON ANNEXATION

Senator Jeff Drozda's (R-Westfield) Senate Bill 114 did not receive a hearing in the House after passing the Senate 26-22 and died from lack of action. IBA was concerned about the potential impact the waiver language could have for economic development and suggested alternatives to Senator Drozda as well as legislators supporting the bill. This issue which will likely surface in the future and IBA will be proactively discussing the issue with legislators during the interim.

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

GREEN BUILDING MANDATE DIES AFTER NEGOTIATIONS FAIL

House Bill 1280, which originally required certain public works contracts valued at one million dollars or more be built or remodeled to LEED Silver, Green Globes Two Globe, or an equivalent ANSI-Certified Standard was changed in the Senate to send the issue to a summer study committee. During conference committee time, IBA continued to oppose the mandate and the final version of the bill passed required the issue to be further studied in summer study committee. IBA will continue to advocate for a voluntary, market-driven approach for green buildings and oppose mandates in this area.

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

WEATHER SIRENS

Senate Bill 334, the weather sirens legislation, required the Indiana Department of Homeland Security to adopt rules establishing standards for severe weather warning sirens and assist counties in the development of a siren coverage plan for the county. IBA supported the final version of the bill as the original language in the bill required developers to pay for weather sirens through an impact fee for the installation of the sirens.

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2008&request=getBill&docno=334>

LICENSING OF NEW HOME SALESPEOPLE MEASURE DIES

The requirement of licensing new home salespeople was included in Senator Connie Lawson's (R-Danville) filed version of Senate Bill 275 died during the 2008 session. IBA opposed the licensing provision contained in the bill and will work with interested parties over the summer on this issue to explain the negative consequences it could have on affordable housing in Indiana.

<http://www.in.gov/legislative/bills/2008/IN/IN0275.1.html>

REGISTRY BILL STOPS DUE TO IBA CONCERNS

Senate Bill 257, the bill that would have created a statewide construction registry online, was changed at the urging of IBA after recognizing aspects of existing Mechanic's Lien statute were inadvertently impacted to send the issue to a summer study committee. The possibility of a statewide construction registry will be further evaluated during the interim by both IBA's Mechanic's Lien Task Force and legislators.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2008&request=getBill&docno=257>

LEAD LEGISLATION MODIFIED, PASSES

Senator Beverly Gard's (R-Greenfield) Senate Bill 143 underwent numerous changes throughout the process and IBA worked with Senator Gard to address those concerns. Specific to the housing industry, the bill originally required the testing of apartments in buildings built prior to 1978 for lead paint and one of the triggers for testing was the pulling of any building permits. IBA opposed this provision as there are limited workers across the state qualified to test for lead and would require additional timelines for projects. Ultimately, the provision was removed and the final bill only impacts the building industry with two provisions: one creates an Advisory Council to make recommendations on several issues and the second requires the Department of Health to adopt rules consistent with HUD lead safe work practices. IBA does have a seat on the Advisory Council and will be closely monitoring any findings.

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

ARCHEOLOGY LEGISLATION SIGNED BY GOVERNOR

House Bill 1129, the archeology legislation which focused on artifacts and burial grounds was a culmination of work with legislators that began last summer and IBA ensured the language addressed our concerns. The bill has been signed by the Governor.

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

TRAINING PROGRAM SUNSETS, NEW DOLLARS ALLOCATED

The Skills2016 program will sunset at the end of the year and typically funds various training programs available through the Department of Workforce Development. This means employers will no longer be responsible for making payments to the Skills2016 Fund, beginning next year. Instead, the legislature approved the following funds to be allocated beginning July 1 of this year and each subsequent July 1:

- One-million dollars (\$1,000,000) to Vincennes University for training provided to participants approved by the US Department of Labor, Bureau of Apprenticeship and Training;
- Four million dollars (\$4,000,000) to Ivy Tech Community College of Indiana for training provided to participants in joint labor and management apprenticeship programs approved by the US Department of Labor, Bureau of Apprenticeship and Training; and
- Two hundred fifty thousand dollars (\$250,000) for journeyman upgrade training to both Vincennes and Ivy Tech.

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2008&request=getBill&docno=1219>

MORTGAGE LENDING

House Bill 1359 became an omnibus bill for mortgage lending and Federal affordable housing issues during conference committee. Several items in the bill include: changing the definition of a “qualified building” in terms of allocating federal low income housing credits; requiring the owner or a loan brokerage business and an applicant for registration as an originator or principal manager to submit fingerprints for a national criminal history background check by the FBI; requiring acknowledgement of a written offer made for a short sale of property that is subject to a mortgage transaction that is at least 60 days delinquent and requires a decision to be made on the offer within 30 business days.

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2008&session=1&request=getBill&docno=1359>

HOMEOWNERS ASSOCIATIONS LIEN LANGUAGE FAULTERS IN THE LAST HOUR OF SESSION

After many attempts to write language that worked for all interested parties regarding Homeowners Association (HOA) liens, the language was removed from the conference committee report on Senate Bill 62. Language addressing HOA concerns was inserted in various bills throughout session to keep it alive while differences were worked out among interested parties and was ultimately placed in SB 62 along with other language, among which included, a 48 hour regulation that would make title companies produce all paperwork to buyers 48 hours before closing. The 48 hour requirement language became controversial among legislators and the decision was made to remove all language inserted during conference committee with a promise to continue working with IBA on needed changes in the future.

OTHER LEGISLATION THAT DIED DURING 2008 SESSION

HB 1047: Local Time Zone Public Question *Dembowski (D-Knox)*
Authorized the placement of a local public question on the ballot in a county located on the boundary between the Central Time Zone and the Eastern Time Zone asking the voters of the county whether the county executive should petition the US Department of Transportation to initiate proceedings to change the time zone in which the county is located.

HB 1080: Homeowners Association *Hinkle (R-Indianapolis)*
The bill intended to give clarification on Homeowner Association rules and provide various definitions within state law. It has been rumored that this issue may be studied in an interim study committee this summer.

HB 1091: Growth and Development Study Committee *Dvorak (D-Indianapolis)*
Established 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.

HB 1231: Mechanic's Lien

Elrod (R-Indianapolis)

Provides that a mechanic's lien has priority over a mortgage or a lien for the development, construction, alteration, or repair of certain property.

SB 287: Building Standards

Breaux (D-Indianapolis)

Requires a public works contract for the construction of a public building or structure is required to meet at least the LEED Silver Rating or an equivalent rating system, such as Two Globes rating system.

SJR 8: Property Tax Repeal

M. Young (R-Indianapolis)

Repealed the state's ability to impose property taxes.