

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #14
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HIGHLIGHTS/NEWS

IBA MEETS WITH IHCDA TO DISCUSS MONETIZATION OF FEDERAL TAX CREDIT

IBA staff met with leadership of the Indiana Housing and Community Development Authority (IHCDA) earlier this week to discuss the possibility of enacting a program in Indiana to monetize the recently passed \$8,000 federal tax credit for first-time homebuyers. According to the National Council of State Housing Agencies website, seven other states have created a loan program to help buyers that need down payment and closing cost assistance when purchasing a home with the tax credit. Most of the above mentioned HFA's are offering special short-term second loans to qualified buyers. These loans are available for little or no interest and may be repaid with the homebuyer tax credit refund. IHCDA continues to review the program and the financial hurdles to implement the program in Indiana. In the interim, IHCDA officials suggested builders and first-time buyers look into the mortgage credit certificate program, which offers first-time home buying Hoosiers a Federal tax credit. The tax credit amount ranges between 20% and 35% of the interest paid on a mortgage each year, depending on the mortgage loan amount. The maximum credit per year is \$2,000. This program is available on a limited basis.

ZIONSVILLE BUILDERS TO RECEIVE REFUNDS OF ILLEGAL IMPACT FEES

The Builders Association of Greater Indianapolis in conjunction with the Indiana Builders Association's Housing Protection Fund has successfully secured refunds from the Town of Zionsville for builders who paid the illegal park impact fee before the case was decided. The deadline for the Town to send the checks was this week. The Housing Protection Fund is a member service that exists to help our members address major regulatory issues that affect our members ability to build affordable, quality, and safe homes in the state of Indiana. The Town of Zionsville had collected over \$350,000 in illegal impact fees from builders, ranging from \$1862 to over \$100,000.

NEIGHBORHOOD DEVELOPMENT RECEIVES FIRST CERTIFICATION USING NATIONAL GREEN BUILDING STANDARD

A neo-traditional community in Northwest Indiana is the first in the country to earn land development certification under the National Green Building Standard, the National Association of Home Builders (NAHB) announced this week. The 60-acre parcel was carved from unused farm fields and old commercial sites in the town of Burns Harbor.

In laying out the Village in Burns Harbor, developer T. Clifford Fleming protected environmentally sensitive areas, preserving existing vegetation and the natural water and drainage features on the site while adding more plants native to the Upper Midwest. Approved by the American National Standards Institute (ANSI) in January, the ICC-700-2008 National Green Building Standard sets benchmarks and a verification protocol for single-family homes, apartments and condominiums, remodeling, lot and site development and all kinds of residential construction.

PERU COUNCIL CONSIDERS INCENTIVE FOR GREEN BUILDERS

On April 6th the Peru City Council considered a proposal to waive all fees for the building permit and plan check of residential and commercial construction projects that are proven to meet the standards of any recognized local, State, or National certified green building programs. Joey Martin, CGP, CGA, CAPS is working with the Council's staff attorney on language for the ordinance which will be further discussed at the Council's next meeting in May.

IHCDA ANNOUNCES HELP FOR HOMEBUYERS

The Indiana Housing and Community Development Authority (IHCDA) announced up to \$25,000 in zero-interest, non-amortizing loans for Hoosiers to purchase foreclosed homes. Hoosiers who buy foreclosed homes to use as their primary residence can qualify for a \$15,000 loan from IHCDA's market stabilization fund. The Federal Home Loan Bank of Indianapolis has committed to supply matching loans of up to \$10,000.

2009-2010 NEIGHBORHOOD ASSISTANCE PROGRAM APPLICATION AND TRAINING

The Indiana Housing and Community Development Authority (IHCDA) has released the 2009-2010 Neighborhood Assistance Program. The Neighborhood Assistance Program (NAP) offers tax credits annually to not-for-profit organizations. Organizations use NAP tax credits as an incentive to help them leverage more contributions from individuals and businesses for certain neighborhood-based programs and projects. All organizations applying for a 2009-2010 NAP award are required to attend the remaining training event and agency representatives must be currently employed by the participating agency. The final workshop will take place on Tuesday, April 14, 2009 from 10-noon at IHCDA. E-mail nap@ihcda.in.gov to register.

MORTGAGE LOAN ACTIVITY INCREASES

On a seasonally adjusted basis, the pace of mortgage loan activity increased 3 percent last week according to the Mortgage Bankers Association. Overall, mortgage rates were down, with 30-year loans declining to 4.61 percent, from 4.63 percent, and 15-year mortgages decreasing to 4.45 percent, from 4.48 percent a week prior.

LEGISLATIVE

DEADLINE PASSES FOR COMMITTEE APPROVAL

This week marked the deadline for legislation to be approved by committee in the opposite Chamber. Bills still moving must be approved with full-Chamber votes by Wednesday, April 15th.

MODEL HOME ACT LANGUAGE PASSES SENATE COMMITTEE

House Bill 1447, which would apply the provisions of the model home act passed during the 2008 Indiana General Assembly to model homes assessed for the first time in 2008 and were unoccupied as of 1/1/09 to the 2008 payable 2009 property tax bills, passed the Senate Tax and Fiscal Policy Committee earlier this week by a vote of 10-1 and now moves to the floor of the Indiana Senate for further consideration. The Chairman of the Committee, Senator Hershman (R-Wheatfield), inserted the language into the bill, at the request of the IBA. A link to current Indiana law on the model home act deduction is below as well as a link to HB 1447 as it passed Committee. IBA encourages members to contact their Indiana State Senator and ask them to vote YES to HB 1447 on the floor of the Senate.

<http://www.in.gov/legislative/ic/code/title6/ar1.1/ch12.6.html>

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&session=1&request=getBill&docno=1447>

TWO-YEAR BUDGET MOVING

Republicans and Democrats on Senate Appropriations Committee voted for a GOP state budget proposal Thursday that preserves the billion dollar state budget surplus. The two-year budget makes use of federal stimulus money to create two-percent increases in school funding in each year. The bill calls for state agencies to endure eight percent cuts.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1001>

WATER NUISANCE BILL SENT TO SUMMER STUDY COMMITTEE

House Bill 1278 provides that a person who unreasonably improves the person's land by knowingly collecting, concentrating, and discharging the diffused surface water from the person's land as a body on a neighboring property so that the water stands on another person's land in an unusual quantity for a prolonged period or passes into or over another person's land in a large quantity is liable for the actual damage caused to the other person by the unreasonable altered flow of diffused surface water. Permits a person whose land is damaged by the neighboring landowner's actions to bring an action to abate or enjoin the unreasonable improvement that caused the altered flow of water. Specifies that this law: (1) does not limit the availability of other civil remedies for damages caused by water; and (2) does not apply to a person engaged in building Class 2 structures or developing land for residential purposes with appropriate local drainage approval.

The bill was heard in Senate Judiciary earlier this week and amended to take the issue to a Summer Study Committee. IBA was opposed to any changes from the House version of the bill that would restore language abrogating the common enemy doctrine and Senate members agreed that the issue deserved further study. Assuming the bill in some form will pass the Senate, the bill will then be eligible for concurrence from the House or sent to a conference committee to resolve differences between the House and Senate version. House authors would like to see a bill pass instead of the issue being sent to a Summer Study Committee.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1278>

HOMEOWNERS ASSOCIATION BILL ADVANCES

House Bill 1071 applies the following provisions to a homeowners association (association) established after June 30, 2009, and allows an association established before July 1, 2009, to elect to be governed by the provisions: (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 the members. (3) Requires the board of directors of an association (board) to hold a special meeting of the members if at least 10% of the members submit a written demand to the board to hold the meeting. (4) Prohibits a board from entering into certain contracts without the approval of the affected members. (5) Prohibits a homeowners association from borrowing certain amounts of money on behalf of the homeowners association unless borrowing the money is approved by the affirmative vote of a majority of members of the homeowners association. (6) Provides that the governing documents of an association must include grievance resolution procedures. (7) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than six months. Provides that an association may enforce an association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located if the complaint is not filed: (1) earlier than one year; and (2) later than five years; after the date the statement and notice of intention to hold a lien were recorded. Provides that an association lien is void if: (1) the owner of the real estate subject to the lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien; and (2) the owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within one year after the date the owner or holder of the lien received notice of the lien.

The bill was approved by Senate Judiciary Committee Wednesday with a vote of 8-2. IBA has been working with other interested parties and legislators on various concerns with the bill. While IBA does not support the legislation, the bill represents a compromise. The bill is now eligible for further action in the Senate and stay tuned for further updates.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&session=1&request=getBill&docno=1071>

UNDERGROUND PLANT PROTECTION BILL PASSES HOUSE

Senate Bill 487 requires the operator of an underground facility to join the Indiana Underground Plant Protection Service (IUPPS) or its successor organization. Imposes a civil penalty if an operator fails to maintain IUPPS membership. Requires an operator to provide information concerning the locations of its underground facilities to the IUPPS. Establishes the underground plant protection advisory committee (advisory committee). Authorizes the advisory committee to conduct hearings on certain violations of underground plant protection law and recommend penalties to the Indiana utility regulatory commission. Establishes the underground plant protection account to receive deposits of civil penalties. Deletes obsolete provisions requiring operators to record

underground facility locations with county recorders. Makes conforming amendments. Repeals an obsolete provision concerning the responsibilities of IUPPS.

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=487>

The bill passed the House by a vote of 98-0 earlier this week and now returns to the Senate for approval of the changes.

FORECLOSURE NOTICE BILL AMENDED AND KEEPS MOVING

Senate Bill 225 with certain exceptions, requires the former owner of real property that: (1) is the subject of a judgment of foreclosure; and (2) contains up to four rental units; to notify (by registered or certified mail) each tenant of the judgment of foreclosure and of the tenant's rights. Permits a tenant of such property to terminate a rental agreement upon written notice delivered to the former landlord. Provides that a tenant who terminates a rental agreement is liable for all rent and other charges due under the rental agreement to the effective date of termination, in an amount that is prorated to the effective date of termination, and is not liable for any other rent or charges solely because of the early termination of the rental agreement, but may be liable for other charges for damage to the rental premises. Authorizes a tenant to bring a civil action against a former owner or former landlord in certain circumstances.

The bill was amended on second reading on the House floor to address concerns on the potential impact to future commercial lending for multi-family projects which are those properties containing four or more units. The bill is now eligible for a full-Chamber vote before returning to the Senate for approval of the changes.

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=225>

REGULATORY

STATE BEGINS WORK ON 2009 RESIDENTIAL CODE

By a vote of 13-10 in favor of the 2009 edition of the International Residential Code (IRC), the Residential Code Review Committee of the Fire Prevention and Building Safety Commission begins work on Indiana's next statewide residential code. Indiana Builders Association has 8 voting members on the committee. To propose a code change visit the code services section of the state's website at <http://www.in.gov/dhs/2375.htm> to download the form. Future committee meetings are scheduled for May 21, June 11, July 9, July 30, August 20, September 10, October 1, October 22, and November 12, 2009 in Lawrence, Indiana and are open to the public. The meeting notice, minutes, and agenda for upcoming meetings are posted at <http://www.in.gov/dhs/2494.htm>.

PUBLIC HEARINGS SET FOR AMENDING THE IRC AND NEC

The public hearings on the proposed rule amending the current Indiana Residential Code (IRC) (LSA Document 09-139) and the proposed rule to adopt by reference and amend the 2008 National Electrical Code (NEC) as the Indiana Electrical Code, 2009 Edition (LSA Document 09-140) are scheduled for Thursday, May 7 in Conference Center Room 22 at 402 West Washington Street, Indianapolis. The hearing on the Residential Code will begin at 9:00 a.m. and the hearing on the Electrical Code will begin at 11:00 a.m. A few of the proposed changes to the IRC include bubble covers in wet locations; weather-

resistant receptacles in both damp and wet locations; a GFCI receptacle required within any deck, balcony, or porch accessible from the inside of the house that has a usable area of 20 square feet or more; HVAC convenience receptacle required within 25 feet of the outside condenser unit, and all garage receptacles are to be GFCI protected. For copies of the proposed rules contact Carlie at 800-377-6334 or Carlie@BuildIndiana.org.

NAHB NEWS

WITH AFFORDABILITY UP, HOME BUYERS ARE STARTING TO RETURN TO THE MARKET

According to figures recently released by NAHB, 55 million families –or half of all U.S. households –can afford today’s \$200,000 median-priced new home. Based on data from the U.S. Census Bureau comparing home prices, mortgage rates and minimum income needed to purchase a median-priced home in February 2007 and February 2009, a typical family today can purchase a house with \$20,000 less in household income and save nearly \$500 per month on their principal, interest, taxes and insurance. The number of households that can afford to purchase a home today is 55.4 million, compared with 38.4 million two years ago, according to figures compiled by NAHB.

FASB DECISION ON FAIR VALUE GUIDANCE

The Financial Accounting Standards Board (FASB) published detailed guidance on fair value (or mark-to-market) accounting rules. According to NAHB, the updated guidance is a positive step for the housing industry because the proposals are intended to clarify the valuation of assets in inactive markets and the treatment of impairments. As a result, financial institutions will have more capital and will be in a better position to lend.