

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #6
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NEWS/HIGHLIGHTS

UPDATE ON STIMULUS PACKAGE FROM NAHB

House and Senate conferees have agreed upon a compromise stimulus package at a total cost of \$789 billion. The House is scheduled to vote on the package today and the Senate will follow suit shortly thereafter, with the expectation that the legislation will reach President Barack Obama's desk by Monday, Feb. 16.

There are several provisions in the overall stimulus package that will be beneficial for many of our members – and help stimulate demand for housing.

Chief among these is an \$8,000 home buyer tax credit for new home buyers. While we are disappointed and would have preferred a more enhanced tax credit like the Senate version, the conferees did retain some key elements from the Senate and made other modifications that are beneficial to home buyers and home builders. For qualified home purchases in 2009, the legislation:

- Stipulates that the \$8,000 tax credit does not have to be repaid, unlike the tax credit passed last summer;
- Keeps the tax credit refundable, or claimable regardless of tax liability;
- Extends the sunset date from July 1, 2009 until Dec. 1, 2009 so that consumers can utilize it during the critical summer and fall buying months;
- Allows tax credit home buyers to participate in the mortgage revenue bond program; and
- Permits state housing finance agencies to help buyers at closing by advancing the credit amount as a loan using tax-exempt bond proceeds.

While much of the industry's focus was on the home buyer tax credit, there are several other important components in the legislation that will help small businesses and bolster the housing market. H.R. 1, the American Recovery and Reinvestment Act of 2009, will:

- Help home borrowers in high-cost markets by extending the 2008 FHA, Fannie Mae and Freddie Mac loan limits of \$729,750 through the end of this year;
- Temporarily allow exchange of Low-Income Housing Tax Credit allocating authority for tax-exempt grants and appropriates \$2 billion in HOME funding for affordable housing projects;
- Provide up to a 10-year deferral of tax due to business debt restructuring;

- Expand the net operating loss carry back period from two years to five years for small businesses (businesses with average gross receipts of no more than \$15 million over the prior 3 years) for losses arising in tax year 2008;
- Extend the 25C existing home remodeler credit through the end of 2010, increase the credit rate from 10 percent to 30 percent, raise the lifetime cap from \$500 to \$1,500, and expand the set of qualifying property;
- Provide an Alternative Minimum Tax patch for tax year 2009;
- Increase bonus depreciation and Section 179 small business expensing for business investment in 2009;
- Increase New Markets Tax Credit allocating authority for 2008 and 2009; and

Delay for one year the start of the 3 percent government contractor withholding requirement (from 2011 to 2012).

TALK WITH YOUR STATE LEGISLATORS ABOUT ISSUES IMPACTING THE ASSOCIATION

The Housing Indiana Legislative lunch is just two weeks away and will provide an excellent opportunity to network with legislators and discuss issues critical to members of the Indiana Builders Association. This grassroots lobbying effort will be held on Monday, February 23rd from 11:30-1:00 p.m. in the Statehouse South Atrium. The cost to attend is just \$25. Contact IBA today to sign-up for the lunch by calling (800) 377-6334 or Info@BuildIndiana.org.

U.S. HOUSING MARKET MAY BOTTOM IN 2009

“Notwithstanding the intensifying economic gloom, the bottom of the housing downturn is within sight,” Mark Zandi, chief economist for Moody’s Economy.com, said in a Feb. 9 statement. “Presuming we see strong action by policymakers to help support the economy and the housing market, prices will begin to recover by the end of this year.”

MORTGAGE LOAN ACTIVITY INCREASES

On a seasonally adjusted basis, the pace of mortgage loan activity increased 8.6 percent last week, according to the Mortgage Bankers Association. Overall, mortgage rates were up, with 30-year loans increasing to 5.28 percent, from 5.22 percent, and 15-year mortgages averaging 5.15 percent, an increase from 4.98 percent a week prior.

FORECLOSURES SLOW FROM DECEMBER TO JANUARY

The number of Americans on the verge of losing their homes fell in January but was still up 18 percent from the same month a year ago. Nationwide, more than 274,000 homes received at least one foreclosure-related notice last month. That was down 10 percent, according to the foreclosure listing service RealtyTrac Inc.

NEW JOBLESS CLAIMS DROP SLIGHTLY NATIONWIDE

The number of people requesting first-time unemployment benefits dropped slightly last week, but remained near a 26-year high as companies laid off thousands of workers amid a deepening recession. The Commerce Department recently said that the number of initial jobless benefit claims dropped to a seasonally adjusted 623,000, from an upwardly revised figure of 631,000 the previous week. The latest tally still was above analysts' expectations of 610,000 claims.

INDIANAPOLIS CREATES NEW CODE-ENFORCEMENT OFFICE

Mayor Greg Ballard announced yesterday the creation of a city office that will combine civil licensing and permitting functions into one entity. The Office of Code Enforcement is part of an effort to make Indianapolis safer and more livable by better enforcing environmental and other quality-of-life-related laws, the mayor said. The office also streamlines inspection and abatement functions.

LEGISLATIVE

SENATE PASSES PROPERTY TAX CAPS

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&session=1&request=getBill&docno=0001&doctype=SJR>

The Indiana State Senate voted 34-16 Monday to pass Senate Joint Resolution 1 to make property tax caps permanent. Senate Joint Resolution 1 would amend the State's Constitution to include 1 percent property tax cap on owner-occupied homes, 2 percent on other residential and agricultural properties and 3 percent on businesses. The Resolution now moves to the State House of Representatives where the measure will be further debated.

HOUSE COMMITTEE PASSES LEGISLATION ON UNEMPLOYMENT INSURANCE TRUST FUND

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1721>

The House Labor committee voted 9-3 on House Bill 1721 that would raise taxes on employers as an effort to fix Indiana's depleted unemployment insurance fund. Companies now have to pay up to 5.6 percent on the first \$7,000 of each employee's salary each year –or up to \$392 a year per worker. The proposed legislation would raise the maximum tax rate to 8.2 percent and increase the taxable wage base to \$9,000. IBA continues to work with lawmakers on crafting a law that takes into account the abuses within the system and the inequities of credit and debit balance employers.

LEGISLATION TARGETING ILLEGAL IMMIGRATION HEARD IN COMMITTEE

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=580>

Senate Bill 580, dealing with unauthorized alien matters, was heard in Senate Labor Committee this past week. IBA is working with a broad-based coalition of business and social groups to push for federal immigration reform, not individual state-based laws.

IMPROPER CLASSIFICATION OF WORKERS BILL PASSES COMMITTEE

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1379>

House Bill 1379, dealing with the improper classification of workers passed the House Labor and Employment Committee this week by a vote of 6-5. The bill has been reassigned to the House Ways and Means Committee where the issue will be further deliberated next week. The current version of the legislation does not apply to residential construction.

UNDERGROUND PLANT PROTECTION BILL PROGRESSES

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&session=1&request=getBill&docno=487>

Senate Bill 487, the underground plant protection legislation which establishes the underground plant protection advisory committee which among other duties can recommend civil penalties for certain violations. IBA testified in the Senate Utilities and Technology committee this week on the legislation and have been working with the authors of the bill on any subsequent changes.

GREEN BUILDING MANDATE FOR STATE BUILDINGS PASSES COMMITTEE

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1620>
House Bill 1620, mandating green building standards in new and existing state buildings passed out of the House Ways and Means Committee this week with a vote of 15-8. The legislation also contains a provision to require an update of energy policies for class 1 structures. IBA testified in opposition to the mandate portion for green building standards. The bill now moves to the House floor for further discussion.

LEAD LEGISLATION ADVANCES

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=202>
Senate Bill 202 transfers the lead-based paint activities program from the Indiana Department of Environmental Management to the Indiana Department of Health was approved in House Health and Provider Services Committee this week. The introduced version of the bill broadened the scope of the program but was scaled back to its current form through an amendment in committee at the request of IBA.

RETENTION POND BILL PASSES SENATE

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=351>
Legislation to allow the Barrett Law to be used to finance a mound, guardrail, barrier or other structure necessary or useful passed the Senate 49-0 this week after an amendment to strike fencing as an acceptable alternative was inserted into the bill at the request of the IBA.

HOMEOWNERS ASSOCIATION LEGISLATION TO BE HEARD IN COMMITTEE

House Bill 1071, dealing with Homeowners Associations (Cheatham D-Mount Vernon) will be heard in the House Judiciary Committee Tuesday, February 17th. We have also heard that House Bill 1088 (Grubb D-Covington, Hinkle R-Indianapolis) may be amended into House Bill 1071 during committee. IBA has been closely working with authors of the legislation to craft amendments to the bill. For complete text of House Bill 1071, please visit

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&session=1&request=getBill&docno=1071>. For complete text of House Bill 1088, please visit

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1088>.

LEGISLATION OF INTEREST

House Bill 1249 Treatment of Unsold Homes as Inventory (Herrell D-Kokomo)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1249>
Provides that single family residential property (other than land) is considered inventory and is therefore not subject to property taxation if the property: (1) is held by the builder on the assessment date in the ordinary course of the builder's trade or business; and (2) has never been occupied for any purpose.

House Bill 1278 Water Nuisances (M. Smith R-Columbus)

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

Water nuisances. Provides that a person who unreasonably improves the person's land and causes an increased or altered flow of diffused surface water onto the land of another person is liable for the damages caused by the unreasonable increased flow of water. Permits a person whose land is damaged by the altered flow of diffused surface water to bring an action to abate or enjoin the unreasonable improvement that caused the altered flow of water. Specifies that: (1) this law does not limit the availability of other civil remedies for damages caused by water; and (2) to the extent that this law conflicts with the common enemy doctrine, the common enemy doctrine is abrogated. *IBA testified in the House Natural Resources Committee earlier this week on several concerns with the legislation. IBA staff and members have met several times over the last week with the author of the bill to address any potential remedies to the current language.*

House Bill 1394 Mortgage transfer and securitization disclosure (Delaney D-Indianapolis)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1394>

Mortgage transfer and securitization disclosure. Requires a transfer of mortgage to be recorded if it is on real property for which the borrower is receiving the homestead standard deduction at the time the mortgage is issued or the transfer is made. Provides that if a lender transfers a mortgage on real property for which the borrower is receiving the homestead standard deduction at the time the mortgage is issued or the transfer is made, the lender must notify the borrower, record a mortgage securitization disclosure statement, and pay a fee. Deposits \$0.50 of the fee in the recorder's record perpetuation fund and the remainder in the state general fund. Provides that the fee is \$250, if the transfer involves the securitization of the mortgage with other mortgages, or \$100, if the transfer is not part of a securitization with other mortgages. *HB 1394 passed out of Committee earlier this week. Discussion also considered the ban of builders owning their own mortgage companies.*

House Bill 1441 Numerous Changes to Planning and Zoning Law (Pearson D-Hartford City)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1441>

Eliminates review of zoning decisions by certiorari, and establishes a judicial review procedure. Provides procedures for vacation of a plat, including any recorded covenants. Prohibits, for two years after an unsuccessful vacation petition, a subsequent vacation proceeding regarding the same property and relief. Allows a plan commission to grant waivers from the subdivision control ordinance, and provides that a plan commission may allow or require a commitment to be made. Makes changes regarding: (1) qualifications of citizen members of plan commissions and boards of zoning appeals; (2) appointment of alternate members to all plan commissions (current law allows only an area plan commission to appoint alternate members); (3) disqualification of plan commission and board of zoning appeals members due to financial interest or bias; (4) publication of the zoning ordinance; and (5) commitments and conditions. Makes other changes to the planning and zoning law. Repeals superseded statutes concerning vacation of plats, commitments, and writ of certiorari. *IBA is supportive of HB 1441. It was heard in Committee earlier this week, but no vote was taken.*

House Bill 1348 International Energy Conservation Code (Dvorak D-South Bend)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1348>

Requires the fire prevention and building safety commission to adopt the most recent edition of the International Energy Conservation Code before July 1, 2010. Requires the commission to adopt any subsequent editions of the code not later than 18 months after the effective date of the subsequent edition. *The bill is now eligible for a vote on the House floor.*

REGULATORY

MODEL HOME RULE RECEIVES PUBLIC HEARING

The Department of Local Government Finance held a hearing on the model home act rule on February 7 to review the proposed rule and application for the model residence deduction. IBA staff testified at the hearing and recommended striking the allocation area box from the application. IBA will notify members once the rule has been finalized. For more information, please click on link: <http://www.in.gov/icpr/webfile/formsdiv/53812.pdf> for the application.

NAHB NEWS

LEGISLATIVE CONFERENCE COMES AT PIVOTAL TIME FOR HOUSING

Builders looking to send a message to Congress that housing deserves 100 percent of their ongoing attention to lead the nation's troubled economy back to higher ground should mark their calendar now for the most important grassroots event of the year –the 2009 NAHB Legislative Conference –which will take place on Tuesday, March 24 in Washington, D.C. For additional information on the conference, visit

http://www.nahb.org/meeting_details.aspx?meetingID=17763 or contact Molly Murray at (800) 368-5242 ext. 8282.