

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #8
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NEWS/HIGHLIGHTS

STATEHOUSE RALLY TO CAP PROPERTY TAXES

Members of the Indiana Builders Association are invited to attend a rally at the Statehouse on Tuesday, March 10th @ 11:30 a.m. The rally will take place on the second floor of the Statehouse and is open to all Hoosiers supporting putting the property tax caps passed last year by the General Assembly in the state constitution. All members are encouraged to attend and ask their State Representative to pass SJR 1, which would put the property tax caps in the constitution, subject to voter approval. SJR 1 has been assigned to the House Ways and Means Committee, but a hearing has not been scheduled to date. A link to Senate Joint Resolution 1 is below. If you plan to attend the event, please call the IBA office at 800-377-6334 or e-mail at: carlie@buildindiana.org.

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

LEGISLATION TO ADDRESS MODEL HOME TAX CREDIT DOES NOT PASS IN FIRST HALF

House Bill 1249 as introduced did not receive a hearing in the first half of the Indiana General Assembly. However, IBA continues to work with key legislators to push for relief during these tough economic times as many builders continue to have model homes across the state with a large property tax bill looming. IBA is advocating for the provisions of the model home act passed in 2008 to apply to all unoccupied, model homes for the 2008 payable 2009 property tax bill.

IBA BOARD APPROVES MOTION FOR NEW HOME TAX CREDIT

The Indiana Builders Association Board of Directors unanimously approved a motion for IBA's lobbying team to engage in discussions with the Indiana General Assembly on the creation of an "Indiana New Home Tax Credit" to put thousands of Hoosiers back to work and help stimulate demand for qualified buyers across the state. Details of the proposal are still being worked out, but in concept, IBA will advocate for a new home tax credit with no income limitation, no first-time home buyer requirement, and no repayment requirement unless the buyer sells or rents the property before set period of time expires. IBA would like to see up to a \$6,000 credit for the purchase of a newly constructed, previously unoccupied home with a dedicated funding stream of at least \$10 million dollars.

BERNANKE HOLDS OUT HOPE FOR NEAR-TERM RECOVERY

Federal Reserve Chairman Ben Bernanke delivered his Fed's Semiannual Monetary Policy Report to Congress this week. Bernanke presented a sobering picture of the U.S. and global economies as well as of the financial systems here and abroad. He also discussed the current policy initiatives on the fiscal front, the financial stability front and the mortgage foreclosure front, and he pledged that the Federal Reserve would do everything in its power to help stabilize the economy and the financial markets. Bernanke said that "there is a reasonable prospect that the current recession will end in 2009 and that 2010 will be a year of recovery."

IDEM UPDATES PERMIT GUIDE TO NAVIGATE APPROVAL REQUIREMENTS

The Indiana Department of Environmental Management has updated its Permit Guide to assist businesses in approval requirements. The Guide provides basic information about approvals IDEM issues for the construction, expansion and operation of facilities that must manage air emissions, solid or hazardous waste, drinking water, wastewater and wetlands. The Permit Guide can be found on IDEM's website at www.idem.in.gov/5881.htm.

STATE SOIL CONSERVATION BOARD SEEKS INPUT ON CLEAN WATER INDIANA

The State Soil Conservation Board is currently in the process of gathering input regarding Clean Water Indiana through an online survey and has asked IBA members to provide input as a way to help establish priorities for resources. To complete the survey and provide your opinions about priorities and allocation of resources among general areas, please visit"

<http://isnri.com/take?i=145775&h=RA7xgpiSxGsTJq1QQ8KDNw>. While no deadline was provided, it is understood this survey will only be posted for a short time so please complete it in a timely manner if interested.

MORTGAGE ACTIVITY INCREASES

On a seasonally adjusted basis, the pace of mortgage loan activity increased 45.7 percent last week according to the Mortgage Bankers Association. Overall, mortgage rates were down, with 30-year loans decreasing to 4.99 percent, from 5.19 percent, and 15-year mortgages averaging 4.66 percent, a decrease from 5 percent a week prior.

LEGISLATIVE

LEGISLATURE REACHES HALFWAY MARK

The Indiana General Assembly reached its halfway point Wednesday evening, requiring all pieces of legislation to be passed out of their Chamber of origin. Bills passed will now switch Chambers where they will be further deliberated in committee and floor action.

UNEMPLOYMENT INSURANCE BILL DEAD, UNCERTAIN FUTURE

House Bill 1721, the proposal crafted by House Democrats to fix the unemployment insurance system and trust fund, died this week after its author Representative David Niezgodski (D-South Bend) failed to call it for a final vote. The proposal would have significantly raised taxes on employers to help balance the fund, but wouldn't lower payments to unemployed workers or tighten eligibility rules. Without a moving vehicle bill, a proposal must be amended into another piece of legislation currently moving through the process. Senate President Pro Tem David Long (R-Fort Wayne) has said both sides need to work on a plan before the legislative session's April 29 adjournment date. IBA has been involved with key legislators and will continue to play an active role on the issue.

KEY LEGISLATION STILL MOVING THROUGH THE PROCESS

House Bill 1001 Budget bill (Crawford D-Indianapolis, Kenley R-Noblesville)

Makes appropriations for the 2009-2010 state fiscal year for operation of state government and various other uses...

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

House Bill 1071 Homeowners association (Cheatham D-North Vernon, Delph R-Carmel)

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 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 affected members. (5) Prohibits a homeowners association from incurring certain amounts of indebtedness or liability on behalf of the homeowners association unless incurring the indebtedness or liability 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 that provide for the final and binding resolution of disputes. (7) Provides that the governing documents of an association must allow for the termination of the association. (8) Specifies procedures concerning enforcement of homeowners association liens involving unpaid regular annual assessments and collection of other unpaid assessments that are not enforceable through the use of a lien. (9) 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. (10) 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.

The bill was approved by the Indiana House 54-41 this week, sending the bill to the Senate for further deliberation. IBA has raised several concerns with the bill as it was drafted and will continue working with authors and sponsors as it moves through the process.

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

House Bill 1081 Rental property foreclosure notices (Day D-Indianapolis, Lubbers R-Indianapolis)

Requires a plaintiff seeking foreclosure on certain rental property to notify the tenants if a foreclosure complaint is filed. Requires a plaintiff seeking foreclosure to notify the tenants if a judgment of foreclosure is entered. Provides that certain tenants may not be evicted for a certain period of time if a plaintiff seeking foreclosure fails to provide a notice of a foreclosure complaint or a notice that a judgment of foreclosure was entered. Provides that certain tenants who are evicted and who did not receive a notice of a foreclosure complaint or a notice that a judgment of foreclosure was entered may bring an action to enforce an obligation of a owner or landlord and may recover certain damages, fees, costs, and expenses.

The bill is scheduled for a hearing in the Senate on Wednesday and IBA will continue monitoring it.

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1081>

House Bill 1176 Residential mortgage lending practices (Riecken D-Evansville, Kruse R-Auburn)

Prohibits creditors, loan brokers, and certain other persons from recommending or making to, or procuring on behalf of, a borrower a first lien mortgage transaction or a home loan without grounds to believe that the borrower has the ability repay the first lien mortgage transaction or home loan based on factors that are reasonable to take into account, as determined by the appropriate regulatory authority or the attorney general's homeowner protection unit (unit), as appropriate. Provides that in the case of a first lien mortgage transaction or a home loan that: (1) is closed after June 30, 2009; and (2) has an interest rate that is subject to change during the term of the loan; the creditor may not contract for and may not charge the debtor or borrower a prepayment fee or penalty. Provides that for a home loan that is closed after December 31, 2009, the closing agent shall, upon the borrower's request, permit the borrower to inspect the closing documents, completed to set forth those items that are known to the closing agent at the time of inspection, with respect to the home loan not later than one business day before the closing. (Provides that for purposes of the requirement, "closing documents" mean the HUD-1 or HUD-1A settlement statement.) Provides that if: (1) the closing agent does not permit the borrower to inspect the closing documents in the prescribed time or manner; or (2) any items required to be set forth in the closing documents are incomplete at the time of the borrower's inspection; the borrower is entitled to delay or reschedule the closing within three days of the scheduled closing without penalty and without forfeiting the right to enter into the home loan or into the purchase contract....

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1176>

House Bill 1278 Water nuisances (M. Smith R-Columbus, Bray D-Martinsville)

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.

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

House Bill 1348 Energy conservation codes and standards (Dvorak D-South Bend, Gard R-Greenfield)

Requires the fire prevention and building safety commission to adopt the most recent edition of the: (1) International Energy Conservation Code as published by the International Code Council; or (2) American Society of Heating, Refrigerating, or Air-Conditioning Engineers Standard 90.1; for Class 1 structures before July 1, 2010. Requires the commission to adopt any subsequent equivalent editions of the code or standard not later than two years after the effective date of the subsequent edition.

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

House Bill 1379 Improper classification of employees (Niezgodski D-South Bend, Kruse R-Auburn)

Provides that an individual performing services for a contractor or subcontractor on a construction project is considered to be an employee of the contractor or subcontractor, with certain exceptions. Provides for investigations of the employment relationship between an individual and a contractor or subcontractor by the department of labor, for certain procedures to be followed in investigations, and for various civil penalties to be assessed by the department of labor for the failure to properly classify individuals as employees. Provides for the sharing of information concerning the classification of individuals as independent contractors among the department of labor, the department of state revenue, the department of workforce development, and the worker's compensation board of Indiana. Provides that certain information pertaining to employee classification shared among the state agencies is confidential and may not be published or open to public inspection. Provides for criminal penalties for the improper classification of employees as independent contractors, and prohibits the awarding of contracts for public work projects to a contractor or subcontractor for four years after the contractor or subcontractor is found to have committed certain recurring improper classifications.

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

House Bill 1408 Mortgage lending practices (Reske D-Pendleton, Bray R-Martinsville)

Provides that if the total amount in the investigative fund administered by the attorney general and the professional licensing agency to investigate real estate and real estate appraisal fraud exceeds \$750,000 at the end of a state fiscal year: (1) 50% of the amount exceeding \$750,000 remains in the fund; and (2) 50% of the amount exceeding \$750,000 shall be deposited in the home ownership education account administered by the authority. (Current law provides that any amount remaining in the fund at the end of a state fiscal year that exceeds \$750,000 reverts to the state general fund.) Establishes the home ownership preservation task force that consists of: (1) the director of the department; (2) the executive director of the authority; and (3) 13 voting members appointed by the governor. Provides that the director of the department and the executive director of the authority serve as co-chairs and nonvoting members of the task force. Requires the task force to conduct at least five meetings before November 15, 2009, and to do the following: (1) Identify new sources of federal funding that can be used to assist Indiana homeowners or communities that are affected by residential mortgage loan foreclosures. (2) Identify any other new or existing sources of federal, state, or private funding that can be used for, or redirected to, those purposes. (3) Identify methods and sources of available funding to promote the authority's mortgage foreclosure counseling and education program. (4) Make recommendations for any state legislation, rules, or programs that the task force determines are necessary to assist Indiana homeowners or communities that are affected by residential mortgage loan foreclosures...

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1408>

House Bill 1620 Energy Efficient Buildings (Pierce D-Bloomington, Gard R-Greenfield)

Requires certain government buildings to be designed and constructed to achieve or exceed the level of energy efficiency required under certain rating systems. Provides that Indiana hardwood lumber may be considered for use as a local source material in any project in which the use of

Indiana hardwood lumber is practicable. Specifies that the Environmental Protection Agency's Energy Star rating system is an optional standard permissible only for the renovation or reconstruction of a government building. Deletes the \$10,000,000 maximum on the amount of bonds that may be outstanding for a state educational institution's qualified energy savings projects. Provides that in order to establish the reasonable expectation of savings for purposes of the statutes governing bonds for energy cost savings contracts, a state educational institution must enter into a qualified energy savings contract in which the qualified provider guarantees in writing that the guaranteed savings achieved will at least equal the annual debt service requirements on the bonds. 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 two years after the effective date of the subsequent edition.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1620>

The bill passed 58-39 and will now move to the Senate for further deliberation. IBA is opposed to the mandate portion of the bill and will continue to express concerns with the language in the Senate.

House Bill 1637 Funding for foreclosure counseling (Bardon D-Indianapolis, Charbonneau R-Valparaiso)

Creates a \$50 court fee on persons filing an action to foreclose a mortgage for purposes of providing sufficient money to provide foreclosure prevention counseling and assistance programs.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1637>

Senate Bill 202 Lead-based paint activities (Gard R-Greenfield, Day D-Indianapolis)

Transfers administration of the lead-based paint activities program from the department of environmental management (IDEM) to the state department of health (state department) and amends the definition of "elevated blood lead level" for purposes of the program. Provides that lead-based paint activities rules adopted before July 1, 2009, by the air pollution control board are considered rules of the state department after December 31, 2009, and requires the state department to adopt rules to replace the rules of the control board. Specifies that the requirements for retail establishments that sell paint do not apply to paint and paint products that are used solely for crafts or hobbies. Sets forth circumstances under which the state department may investigate lead-based paint abatement activities. Repeals current provisions governing the IDEM lead-based paint activities program.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=202>

Senate Bill 225 Foreclosure and tenants (Lubbers R-Indianapolis, Day D-Indianapolis)

Requires the owner of commercial or residential real property containing a rental unit to notify the tenants if a judgment of foreclosure is entered concerning the property, and permits a tenant to terminate a rental agreement if a judgment of foreclosure is entered against the owner.

Authorizes a tenant to bring a civil action if the owner does not comply with the notice provisions, and provides that a tenant who terminates a rental agreement early in compliance with the statute does not forfeit the damage deposit due to the early termination, but may still be liable for actual damages. Specifies that the notice provisions do not apply to: (1) commercial leases of more than three years; (2) commercial leases in which the tenant has been named as a

defendant in the foreclosure action; and (3) real property where a receiver has been appointed. Makes other changes and conforming amendments.

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

Senate Bill 337 Registering interior designers (Kruse R-Auburn, GiaQuinta D-Fort Wayne)

Requires the professional licensing agency to create an electronic registry for interior designers. Establishes registration criteria for interior designers. Provides that the professional licensing agency is not liable for misrepresentations, fraud, or omissions caused by an individual who is registered on the registry. Establishes the professional licensing study committee.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=337>

Senate Bill 351 Barrett law for retention pond barriers (Bray R-Martinsville, Tincher D-Terre Haute)

Specifies that Barrett Law funding may be used to finance a mound, guardrail, barrier, or other structure necessary or useful to: (1) limit access by children to a retention pond; or (2) reduce the likelihood that a vehicle will enter a retention pond. Provides that if such an improvement is constructed under the Barrett Law within a platted subdivision, the works board may assess all or part of the lots in that subdivision for the improvement.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=351>

Senate Bill 478 Improper classification of workers (Kruse R-Auburn, Niezgodski D-South Bend)

Provides for the sharing of information concerning the classification of individuals as independent contractors among the department of labor, the department of state revenue, the department of workforce development, and the worker's compensation board of Indiana. Provides that certain information pertaining to employee classification shared among the state agencies is confidential and may not be published or open to public inspection. Provides that an officer or employee of a state agency who knowingly or intentionally discloses confidential information concerning any suspected improper classification of an individual commits a Class A misdemeanor.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=478>

Senate Bill 487 Underground plant protection (Charbonneau D-Valparaiso, Austin D-Anderson)

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/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=487>

Senate Bill 533 IOSHA and labor administrative matters (Buck R-Kokomo, Kersey D-Terre Haute)

Allows the department of labor (department) to collect a penalty assessment assessed under the Indiana occupational safety and health act (IOSHA) by obtaining a judgment lien against an employer's real or personal property or levying upon an employer's property held by a financial institution. Urges the legislative council to assign to the pension management oversight commission the study of certain wage payment issues.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=533>

Senate Bill 564 Model standards for vacant structures (Breax D-Indianapolis, Sullivan D-Indianapolis)

Before January 1, 2010, requires the health and hospital corporation in a county having a consolidated city to adopt maintenance and repair standards for the consolidated city for purposes of the unsafe building laws.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=564>

Senate Bill 580 Unauthorized alien matters (Kruse R-Auburn, Pelath D-Michigan City)

Requires the department of correction to: (1) evaluate the citizenship and immigration status of a committed offender; and (2) notify and assist the United States Department of Homeland Security under certain conditions. Provides that the fact that a defendant is a foreign national not lawfully admitted to the United States is a fact relevant to the risk of nonappearance a judicial officer must consider in setting bail. Requires a sheriff to make a reasonable effort to determine the citizenship or immigration status of certain persons confined in a county jail. Prohibits an employer from knowingly employing, after September 30, 2009, an unauthorized alien.

Authorizes 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) under certain conditions, notify United States Immigration and Customs Enforcement, local law enforcement agencies, and the prosecuting attorney in the county in which an unauthorized alien is employed; and (4) maintain certain records of violation orders. Provides that a prosecuting attorney who receives notification from the attorney general may bring a civil action against an employer for knowingly employing an unauthorized alien. Prohibits the prosecuting attorney from filing an action against an employer that verifies the employment authorization of an employee through the E-Verify program.

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

The legislation passed the Senate 37-13 and now moves to the House for further action. IBA will continue to work with interested legislators on the issue to make suggested changes.

Senate Joint Resolution 1 Circuit breakers and other property tax matters (Kenley R-Noblesville, Crawford D-Indianapolis)

For property taxes first due and payable in 2012 and thereafter, requires the general assembly to limit a taxpayer's property tax liability as follows: (1) A taxpayer's property tax liability on homestead property may not exceed 1% of the gross assessed value of the homestead property. (2) A taxpayer's property tax liability on other residential property may not exceed 2% of the gross assessed value of the other residential property. (3) A taxpayer's property tax liability on agricultural land may not exceed 2% of the gross assessed value of the property that is the basis for the determination of the agricultural land. (4) A taxpayer's property tax liability on other real

property may not exceed 3% of the gross assessed value of the other real property. (5) A taxpayer's property tax liability on personal property may not exceed 3% of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within a particular taxing district. Specifies that property taxes imposed after being approved by the voters in a referendum shall not be considered for purposes of calculating the limits to property tax liability under these provisions...

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

LEGISLATION NO LONGER ELIGIBLE FOR ACTION

House Bill 1249 Treatment of unsold homes as inventory (Herrell D-Kokomo)

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 1324 Employee's right to work (Torr R-Carmel)

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 separate private right of action for violations or threatened violations.

House Bill 1400 School impact fees (Reske D-Pendleton)

Authorizes a school corporation to adopt a school impact fee resolution that imposes an impact fee on new residential development. Provides that a school corporation may not adopt an impact fee unless the school corporation's capital projects plan includes the following components: (1) Projected school capacity needs for the current year and for not less than the succeeding four year period. (2) Estimated capital costs for the additional capacity needs. (3) Identification and general description of each project. (4) The estimated total cost of each project. (5) Identification of all sources of funds expected to be used for each project. (6) The planning, development, and construction schedule of each project. Provides that a school impact fee is equal to the proportionate share of costs incurred or to be incurred by a school corporation to provide school infrastructure that is required by, necessitated by, or needed to serve the new residential development, minus the sum of any nonlocal revenues, taxes, and charges that the fee payer and future owners of the development will pay for use of the school infrastructure.

House Bill 1436 Electricians (Friend R-Macy)

Establishes the electrical industry licensing board. Establishes licensing requirements for electrical contractors.

House Bill 1441 Numerous changes to planning and zoning law (Pearson D-Hartford City)

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.

House Bill 1580 Soil and septic system education and research (Kersey D-Terre Haute)

Establishes the soil and septic system education and research council (council). Requires the dean of agriculture of Purdue University to establish and administer a soil and septic system education and research program. Establishes the soil and septic system education and research fund (fund). Provides that the council shall recommend expenditures from the fund for the soil and septic system education and research program. Requires the board of each county health department (and the Marion County health and hospital corporation) to impose a fee of \$10 on each permit issued by the county health department or the county for the operation, installation, construction, repair, or replacement of a septic system. Requires the fees to be paid to the treasurer of state for distribution to the fund.

Senate Bill 58 Property tax assessment of undeveloped land (Walker R-Columbus)

Limits to one year the period during which undeveloped land in the inventory of a land developer is not subject to property tax reassessment.

Senate Bill 179 Annexation (Buck R-Kokomo)

Provides that a waiver or release of the right of remonstrance against annexation effective after June 30, 2009, expires ten years after the date the waiver or release is executed. Provides that in determining a municipality's levy limits for a particular ensuing calendar year, the cap on increased assessed value applies to all annexations of a municipality occurring in the particular ensuing calendar year. Reduces the number of signatures required on an annexation remonstrance petition from at least 65% of the owners of land in the annexed territory to at least 51% of the owners of land in the annexed territory. With certain exceptions: (1) requires a municipality to amend an annexation ordinance or fiscal plan before the public hearing on the annexation; and (2) prohibits a municipality from amending an annexation ordinance or fiscal plan after the public hearing on the annexation. Provides that if it is consistent with the municipality's policy of providing capital services to areas within the corporate boundaries, a municipality may provide less than all of the capital services to areas within the annexed territory.

Senate Bill 220 Annexation (Gard R-Greenfield)

Provides, with certain exceptions, that when a municipality initiates an annexation, the municipality must file a petition with the court containing the signatures of: (1) at least 75% of the landowners in the territory proposed to be annexed; or (2) the owners of more than 75% in assessed valuation of the land in the annexed territory. Provides that, if the court finds that the petition has a sufficient number of signatures, a hearing will be conducted to review the

annexation and fiscal plan. Allows a person to intervene as a party at the hearing to review the annexation and fiscal plan if: (1) the person is an owner of property in the territory; (2) the person, and no other owner of the property have signed the petition filed by the municipality; and (3) the person appeared at the hearing conducted by the municipality on the annexation ordinance or submitted a remonstrance or other document into the record of the hearing. Eliminates a procedure that requires the court to order an annexation not to take place if certain circumstances are shown. Removes provisions allowing a municipality to obtain waivers of a landowner's right to remonstrate against an annexation. Provides that in all circumstances an annexation becomes effective when the ordinance or judgment is filed by the municipal clerk.

Senate Bill 234 Public safety funding (Buck R-Kokomo)

Eliminates the authority of a political subdivision to impose a property tax for public safety services. Imposes a public safety service fee instead of the property tax. Allows the imposition of an impact fee for capital improvements for public safety purposes. Requires a property insurer to pay a fire department reimbursement provided in a policy in response to the property owner's claim against the insurer. Allows a fire department to charge the property owner if the reimbursement is not paid.

Senate Bill 284 International energy conservation code (Errington D-Muncie)

Requires the fire 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.

Senate Bill 373 Mechanic's liens (Kruse R-Auburn)

Establishes a state construction registry program (program) to create and maintain an electronic data base for the filing of certain mechanic's liens that relate to the construction, alteration, or repair of Class 2 structures. Requires the office of technology to supervise the program and to contract with a third party to operate the program. Provides that the program must: (1) maintain a central data base; (2) accommodate electronic filing; (3) assign a lien identification number; (4) provide notification by electronic mail to the filer; and (5) be indexed to permit searching. Authorizes the office of technology to charge a fee sufficient to cover the expenses of the program. Makes other changes and conforming amendments.

Senate Bill 387 Recorder fees deposited in affordable housing fund (Deig D-Mount Vernon)

Requires (in a county other than Marion County) a county that has authorized an additional recording fee to distribute the fees to each city and town within the county that has established an affordable housing fund and, if the county has established an affordable housing fund, to the county. (Current law provides that in these counties, 60% of the money is distributed to units that have established affordable housing funds and 40% of the money is transferred to the state for deposit in the affordable housing and community development fund.)

Senate Bill 404 Homeowners associations (Tallian D-Portage)

Provides that: (1) a grantee of real estate is not liable for; and (2) the real estate conveyed is not subject to a homeowners association lien for; any unpaid homeowners association assessments against the grantor unless the grantee has actual knowledge of the unpaid assessments. Allows

the manager of a homeowners association to enforce a homeowners 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. Provides that a complaint must be filed not later than six years after the date the statement and notice of intention to hold a lien is recorded instead of one year after the date. Allows a homeowners association or the manager of the homeowners association acting on behalf of the association to: (1) bid on the real estate at a homeowners association lien foreclosure sale; and (2) acquire, hold, lease, mortgage, and convey the real estate. Specifies that an action to recover a money judgment for unpaid homeowners association common expenses may be maintained without foreclosing or having a lien securing the expenses.

Senate Bill 513 Homestead property taxes and sales and use taxes (R. Michael Young R-Indianapolis)

Eliminates property taxes on primary residences (homesteads). Decreases the state sales and use tax rate from 7% to 5.5%. Provides that sales and use tax applies to transactions involving services, except for legal services, health or mental health services (including insurance premiums for policies covering these services), and services provided for charitable tax exempt purposes. Deposits the increased sales and use tax revenue in the state general fund. Provides an annual state distribution to offset the property tax exemption for homesteads using gross assessed values of homesteads. Reduces actual property tax levies by the amount of the state distribution. Reduces local option income tax rates by the part attributable to paying homestead credits, property tax replacement credits on homesteads, or freezing levy growth on homesteads unless the county adopts an ordinance to allocate the revenue to the general fund of the various civil taxing units in the county. Eliminates the right of a governmental unit, including special benefit districts, to place a lien on a homestead. Increases the maximum renter's deduction for income tax purposes from \$3,000 to \$8,000 per taxable year. Removes references to the homestead credit throughout the Indiana Code. Removes superseded provisions. Makes conforming changes. Makes an ongoing appropriation.

REGULATORY

CALL TO ACTION: GRASSROOTS LOBBYING EFFORT – PICK '06 IN '09

IBA supports adoption and revision of the 2006 International Residential Code (IRC) and we're asking you to contact your local building officials and encourage their support of this code.

Besides mandatory fire sprinklers in 1- and 2-family dwellings, there are several code provisions within the 2009 IRC will significantly increase building costs and be difficult for building officials to enforce:

- Carbon monoxide detectors are now required without direction on where to locate the devices.
- More restrictive wall bracing requirements (ex: blocking between roof framing members at braced wall panels). Additionally, the wall bracing language is much more complex to apply than in previous versions. Thus most builders will be forced to utilize the costly services of a structural engineer to comply with the new wall bracing requirements.
- Duct leakage testing if ductwork is located outside the thermal envelope.
- Either visual inspection by a 3rd party or blower door testing to confirm air tightness of the thermal envelope.

- Mandatory programmable thermostats.
- Can no longer tradeoff equipment in lieu of building envelope requirements to comply with Chapter 11 (Energy Efficiency).

At its next meeting on April 9th the Indiana's Fire Protection & Building Services Commission's International Residential Code (IRC) Review Committee will decide which edition of the code to review. Please contact your local building officials, particularly the members of the Indiana Association of Building Officials, and tell them to pick '06 in '09.

For contact information, please e-mail Carlie Hopper at Carlie@BuildIndiana.org.

NAHB NEWS

HOUSING STARTS AND PERMITS SINK TO RECORD LOWS

Housing starts and building permits have been falling for three years, and the downswing actually has accelerated in recent months. Total housing starts fell 16.8% from December to January, the year-over-year decline came to 56.2% and the decline from the January 2007 peak now stands at 80%.

BUILDER CONFIDENCE HOLDS NEAR RECORD LOW AS SALES PROSPECTS DETERIORATE

The NAHB/Wells Fargo Single-Family Housing Market Index (HMI) edged up by one point in February from the record low of 8 recorded the month before. The HMI has been essentially flat at a depressed level since last November.

CEDIA AND NAHB CONSIDERING CO-LOCATING MAJOR INDUSTRY EVENTS

The Custom Electronic Design & Installation Association (CEDIA) and the National Association of Home Builders (NAHB) are considering co-locating CEDIA's 2009 Electronic Lifestyles Forum and NAHB's 2009 Custom Home Builder Symposium/Design Institute November 6-8 at the San Diego Hilton in San Diego, California. "We see this opportunity as a natural progression of the NAHB/CEDIA relationship," said Jerry Howard, NAHB's President and CEO. "Our builder members need and want this interaction with home technology experts. They realize home automation is key in appealing to the next generation of home buyers. It's also gratifying to see our respective groups exploring new areas of cooperation; we hope that will continue in other areas as well," he said.