

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #2
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NEWS/HIGHLIGHTS

MODEL HOME ACT REGULATIONS SCHEDULED FOR HEARING

The Department of Local Government Finance (DLGF) recently announced plans for a public hearing on a proposed rule to establish formal procedures to govern the application for the deduction for model homes and can be found at <http://www.in.gov/legislative/iac/20090114-IR-050080755PHA.xml.html>. The public hearing will be held on Friday, February 6th at 3 p.m. in DLGF's conference room (100 N. Senate Avenue, Room N1058, Indianapolis, 46204). The DLGF also recently posted the application needed to begin taking advantage of the deduction. The application is posted on DLGF's website at <http://www.in.gov/icpr/webfile/formsdiv/53812.pdf>.

ATTEND HOUSING INDIANA LEGISLATIVE LUNCHEON AT THE STATEHOUSE

Plan today to attend the Housing Indiana luncheon being held at the Statehouse on Monday, February 23rd from 11:30 a.m. -1 p.m. This will be the one opportunity of the year to speak with legislators from across the state on important facing the General Assembly with an impact on the construction industry. The timing of the event could not be better; the deadline for pieces of legislation to leave their chamber of origin is later that week. The luncheon is being held in conjunction with the IBA Annual Housing Conference and cost to attend is \$25. Contact IBA today to reserve your space by calling (800) 377-6334 or Info@BuildIndiana.org.

MAIL A WOOD BLOCK TO CONGRESS WITH A PERSONALIZED MESSAGE

Several HBA's across the state are encouraging their members to send a 6 inch 1" X 4" blocks of wood in place of a standard letter to Indiana's Congressional delegates asking them to support Fix Housing First. The blocks will certainly grab the attention of legislators as well as staff and provide a unique way of expressing support for the Fix Housing First legislation. Wood blocks should be mailed from a U.S. Post Office and cost roughly \$2.50 per block. Contact IBA at (800) 377-6334 for additional information.

BURTON ADVOCATING FOR HOMEBUILDERS

Congressman Dan Burton mentioned the plight of the homebuilding industry in a recent floor speech in Congress. Representatives of builders association were in Congress last week to advocate on behalf of the Fix Housing First Coalition and met with Burton. A portion of the speech can be viewed by visiting

http://clips.shadowtv.net/media/stv/3343/8/2009/015/11/3343_8_20090115_113950_130.wmv.

LEGISLATIVE

GOVERNOR AND OFFICE HOLDERS SWORN INTO OFFICE

Governor Mitch Daniels and other statewide officeholders were sworn into office earlier this week with a scaled down ceremony. In a roughly 700 word address, the Governor promised to continue his efforts to reshape state government. Attorney General Greg Zoeller and State School Superintendent Tony Bennett made brief remarks during the ceremony, highlighting areas in which they intend to improve upon.

GOVERNOR GIVES STATE OF STATE SPEECH

Governor Mitch Daniels delivered his annual State of the State address Tuesday evening, mainly focusing on local government reform, education and the budget which must be written and approved by April 29th. Daniels said the budget would be his top priority during the legislative session and included a framework for the task by recommending it spend less than the state is projected to take in, no bookkeeping tricks to balance it, and stop spending on programs that have not worked or are nonessential. Daniels recently released his budget proposal that calls for trimming higher education operating costs by 4 percent and cut most agency spending by 8 percent from 2009 levels.

COMMITTEE DEBATES MORTGAGE ISSUES

The House Department of Financial Institutions committee held a hearing this week regarding House Bill 1176 on residential lending practices. The bill adds a number of new requirements on the lenders including making a good faith inquiry into the borrower's ability to repay, deals with pre-payment penalties, and addresses suitability. The committee did not take a vote on the legislation and held it pending review of amendments. Full text of the bill can be found at <http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1176>.

LEGISLATION OF INTEREST

Senate Bill 58 Property Tax Assessment of Undeveloped Land (Walker R-Columbus)

<http://www.in.gov/legislative/bills/2009/IN/IN0058.1.html>

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 241 Construction Industry Disaster Volunteer Program (Merritt R-Indianapolis)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=241>

Establishes the construction industry disaster volunteer program (program). Provides immunity from civil liability to a construction industry professional and the construction industry professional's employer for services provided by the construction industry professional as a participant in the program during a disaster. Authorizes reimbursement for certain expenses incurred by a construction industry professional while participating in the program during an emergency. Makes technical corrections.

Senate Bill 351 Barrett Law Funding for Retention Pond Barriers (Bray R-Martinsville)

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

Specifies that Barrett Law funding may be used to finance a fence, 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.

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

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=373>

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-Indianapolis, Becker R-Evansville)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=387>

Recorder fees deposited in affordable housing fund. 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)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=404>

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 477 Department of Workforce Development Collections (Kruse R-Auburn)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=477>

Authorizes the department of workforce development (DWD) or its agent to collect delinquent unemployment insurance assessments and benefit overpayments after filing a judgment lien for the amount due. Authorizes collection of a judgment lien by taking any of the following actions:

(1) Levy upon property held by a financial institution. (2) Garnishment. (3) Levy and sale of real or personal property. (4) Use of a data match system with financial institutions. Provides that officers and members of corporate, partnership, or limited liability company entities are personally liable for the payment of their employer's delinquent assessments. Authorizes the DWD to employ special counsel or contract with a collection agency and to set the fee that the counsel or agency receives. Adds collection fees to the judgment lien amount. Lengthens from one to three years the time in which the DWD may begin a collection action against an officer or director of a corporation effecting a dissolution, liquidation, or withdrawal. Establishes civil penalties that may be assessed against a financial institution that fails to provide information required for a data match system. Provides immunity for a person or entity taking an action in good faith to collect unemployment insurance assessments or benefit overpayments unless the action is contrary to the DWD's direction to the person or entity.

House Bill 1071 Homeowners Associations (Cheatham R-North Vernon)

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

Prohibits a homeowners association from incurring indebtedness or liability on behalf of the homeowners association in an amount that exceeds \$5,000 during any calendar year unless incurring the indebtedness or liability is approved by the affirmative vote of a majority of members of the homeowners association. Specifies the procedures that must be followed when conducting the vote. Provides that all sums assessed by a homeowners association but unpaid for the share of the common expenses chargeable to an owner of real estate are not enforceable as a homeowners association lien on the real estate. Voids liens established and recorded under the law concerning homeowners association liens after the law became effective. Repeals other provisions concerning establishment and enforcement of homeowners association liens.

House Bill 1088 Homeowners Associations (Grubb D-Covington, Hinkle R-Indianapolis)

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

Applies the following to a homeowners association (association) established after June 30, 2009: (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, 2009, to elect to be governed by these provisions.

House Bill 1168 Unemployment Insurance Benefits (Tyler D-Muncie)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1168>

Provides that an individual who was unemployed during a certain period is entitled to file or refile a claim for unemployment insurance benefits before July 1, 2010, and is entitled to receive benefits for the period during which the individual was unemployed if, after February 28, 2007: (1) the person filed a claim that was denied; or (2) the person failed to file a claim because the individual believed or was told by an employee of the department of workforce development that the claim would be denied; solely because of certain compensation that the individual received under a valid negotiated contract or agreement in connection with a layoff or plant closure and that was or would be considered deductible income.

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

<http://www.in.gov/apps/lsa/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 1348 International Energy Conservation Code (Dvorak D-South Bend)

<http://www.in.gov/apps/lsa/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.

House Bill 1378 Improper Classification of Employees (Niezgodski D-South Bend)

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

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.

House Bill 1380 Energy Efficient Buildings (Niezgodski D-South Bend)

<http://www.in.gov/apps/lsa/session/billwatch/billinfo?year=2009&request=getBill&docno=1380>

Requires a building or structure constructed, reconstructed, repaired, altered, or retrofitted with certain public works contracts entered into after December 31, 2009, to be designed with the goal

of achieving the silver rating under the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system, the Green Globes Two Globes level, or an equivalent standard under an equivalent rating system that is accredited by the American National Standards Institute. Provides that for state agency purchases, there is a 5% price preference for certain office equipment that is compliant with the United States Environmental Protection Agency Energy Star ratings. 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 leadership in energy and environmental design ratings systems developed by the U.S. Green Building Council or the Green Building Initiative.

House Bill 1400 School Impact Fees (Reske D-Pendleton)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&session=1&request=getBill&doctype=HB&docno=1400>

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 1482 Land Surveyors (Eberhart R-Shelbyville)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1482>

Allows a licensed land surveyor to enter any land or property within Indiana to conduct a survey. Provides procedures for: (1) notifying a land owner; and (2) compensating a landowner for any damage.

House Bill 1580 Soil and Septic System Education and Research (Kersey D-Terre Haute)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1580>

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.

REGULATORY

ISDH ANNOUNCES INTENT TO ADOPT RULE CONCERNING RESIDENTIAL ON-SITE SEWAGE SYSTEMS

The Indiana State Department of Health has filed its intent to adopt a rule to update and clarify agency requirements pertaining to the design, construction, installation, maintenance, and operation of residential on-site sewage systems. The intent can be found at <http://www.in.gov/legislative/iac/20090114-IR-410090007NIA.xml.html>.

ISDH ANNOUNCES INTENT TO ADOPT RULE REGARDING POOLS AND SPAS

The Indiana State Department of Health has filed its intent to adopt a rule to add and update definitions, to update and clarify agency requirements pertaining to the maintenance and operation of public and semi-public pools and spas, and to add tourist home requirements. The intent can be found at <http://www.in.gov/legislative/iac/20090114-IR-410090006NIA.xml.html>.

NAHB NEWS

FIX HOUSING FIRST CAMPAIGN NETS RESULTS

NAHB's Fix Housing First campaign recently released results of their effort and show you are contacting legislators. In total, there were 1,227 calls made, 3,569 e-mails sent last week, and the letter writing campaign for Fix Housing First has netted 7,491 letters since early December. If you have not already done so, contact your legislators today and encourage them to Fix Housing First! Talking points and information can be found at www.fixhousingfirst.com.

BUILDERS TESTIFY BEFORE CONGRESS ON USE OF TARP FUNDS

As Congress considers releasing the second half of the Treasury's \$700 billion Troubled Asset Relief Program (TARP), NAHB urged lawmakers to use a portion of the funds to stem the rising tide of foreclosures and increase the flow of credit for housing production. NAHB also urged passage of legislation to stimulate housing demand.

SENATORS RECOMMEND EXPANDING ENERGY TAX INCENTIVES

As part of the federal government's efforts to stimulate the lagging U.S. economy, Senators Olympia Snowe (R-Maine) and Dianne Feinstein (D-California) recommended in a January 6 letter to President-elect Barack Obama significant expansions in two important energy tax incentives that promote energy-efficient construction. The senators propose to increase the impact of current incentives which include a \$2,000 credit to builders of qualified energy efficient homes and a \$1.80-per-square-foot deduction for installation of certain energy-efficient features in commercial buildings (including multifamily properties four or more stories above grade) by extending the tax credit for three years and increasing the builder credit to \$5,000. They have also proposed increasing the \$1.80 per square foot to \$3 per square foot through 2011.

MISCELLANEOUS

IBA OFFICE RELOCATED, TIME TO UPDATE CONTACT INFORMATION

Due to the recent relocation of IBA's Office, please note that staff can be reached at (800) 377-6334 and mail should be sent to 101 W. Ohio Street, Suite 1111, Indianapolis, 46204. All other addresses (including the P.O Box) and phone numbers are no longer valid. The move is a result of the Builders Association of Greater Indianapolis' decision to purchase IBA's interest in the building. Please update contact information for IBA and look forward to hearing from you soon!

PLAN TO ATTEND IBA'S ANNUAL HOUSING CONFERENCE

Find the “green lining” and attend four exceptional educational tracks at IBA’s Annual Housing Conference (formerly Indiana’s Midwest Builders Convention.) The conference, held Feb. 24-25 at the Indiana Convention Center in Indianapolis, draws upwards of 1,000 building and remodeling professional who participate in programs designed specifically to address the most important issues and challenges facing the housing industry. The educational tracks are led by national speakers new to this year’s conference and focus on sales, market solutions, green growth as well as codes. To register or to see more details, visit www.buildindiana.org or call (800) 377-6334.