

INDIANA BUILDERS ASSOCIATION

Legislative and Regulatory Report #1

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NEWS/HIGHLIGHTS

IBA PARTICIPATES IN ALL-OUT “BUILDER BLITZ”

NAHB members from Indiana took part in an organized blitz on Capitol Hill this week to lobby key congressional representatives to push key housing recovery measures into the new economic stimulus plan. A couple of members and IBA CEO Rick Wajda made the trip and was able to meet with all the legislators or staff of legislators which make up Indiana’s delegation.

IBA MEMBERS SPREADING THE WORD ABOUT THE NEED FOR HOUSING STIMULUS

Several Indiana Builders and IBA President Dennis Spidel hosted a conference with media from across the state to push the urgency of putting housing at the center of the economic stimulus plan that Congress is now rushing to put together. The call took place on Thursday afternoon and received wide spread interest from various media outlets across the state.

MAIL A WOOD BLOCK TO CONGRESS WITH A PERSONALIZED MESSAGE

The Builders Association of Greater Indianapolis is encouraging its members to send a 6 inch 1” X 4” blocks of wood in place of a standard letter to Indiana’s Congressional delegates. The blocks will certainly grab the attention of legislators as well as staff and provide a unique way of expressing support for legislation. Wood blocks should be mailed from a Post Office and cost roughly \$2.50 per block. Contact IBA at (800) 377-6334 for additional information.

ATTEND HOUSING INDIANA 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.

ATTEND IBA BOARD MEETING, HEAR LT. GOVERNOR BECKY SKILLMAN SPEAK

Plan to attend IBA's Board of Directors’ meeting being held on Monday, February 23rd at 4:30 p.m. Lieutenant Governor Becky Skillman plans to speak and will provide an update on the affairs of the state as they relate to the housing industry. Reserve your space at the Board meeting today by calling IBA at (800) 377-6334 or contacting Info@BuildIndiana.org.

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.

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!

MORTGAGE LOAN ACTIVITY LEVEL UNCHANGED

On a seasonally adjusted basis, the pace of mortgage loan activity remained virtually unchanged last week from the prior week, according to the Mortgage Bankers Association. Overall, mortgage rates were down, with 30-year loans decreasing to 5.03 percent, from 5.04 percent, and 15-year mortgages averaging 4.79 percent, a decrease from 4.91 percent a week prior.

LEGISLATIVE

GOVERNOR DANIELS PREPARES FOR INAUGURATION, STATE OF STATE

Governor Mitch Daniels will be busy next week. Monday, January 12th at 11 a.m. Daniels will be inaugurated outside his office in the Statehouse for his second term in a small ceremony, delivering what he says will be a very short speech. Tuesday, January 13th Daniels will deliver his annual State of the State speech to the public beginning at 7 p.m. and will outline his agenda for the upcoming year.

GOVERNORS PROPOSED BUDGET UNVEILED

State Budget Director Chris Ruhl outlined the Governor’s \$28 billion budget to key lawmakers on the State Budget Committee Thursday morning. The plan calls for no increases in public school funding, cuts in higher education spending and preservation of the rainy day fund. The budget will now go before the House Ways and Means Committee next week to allow lawmakers to draft their own budget.

COMMITTEE HEARS FROM CONSUMERS ON MORTGAGE FORECLOSURES

The House Committee on Financial Institutions held its first committee hearing Tuesday. The hearing was centered around consumer testimony on mortgage foreclosures. According to Committee Chairman Representative Jeb Bardon (D-Indianapolis), the hearing was a way to set the tone for the committee through out session. At this point any filed legislation dealing with the mortgage issue has not been made available to the public. IBA attended the committee and will continue to monitor the issue as session progresses.

LEGISLATION OF INTEREST

The 116th General Assembly convened this week for the start of a long session which runs until April 29th. IBA is currently reviewing proposed legislation as they are released to the public and will continue to post additional bills in the newsletter. IBA encourages you to become involved and contact us with concerns.

SB 36 Renewable Energy Standards (Lanane D-Anderson)

<http://www.in.gov/legislative/bills/2009/IN/IN0036.1.html>

Requires an electricity supplier to supply a certain percentage of its total electricity supply from renewable energy resources. Establishes the renewable energy resources fund. Requires an electricity supplier that fails to supply the specified percentage of electricity from renewable energy resources to pay a penalty. Deposits the penalties in the renewable energy resources fund. Requires the Indiana economic development corporation, in consultation with the Indiana utility regulatory commission, to develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

SB 40 Homestead Assessed Value Growth Cap (Zakas R-Granger)

<http://www.in.gov/legislative/bills/2009/IN/IN0040.1.html>

Limits the annual increase in assessed value of a homestead to 5% unless: (1) ownership of the homestead changes during the year; or (2) the increase results from physical changes to the homestead.

SB 47 Conversion by Failure to Return Rented Property (Steele R-Bedford)

<http://www.in.gov/legislative/bills/2009/IN/IN0047.1.html>

Requires a lessor to include in a rental or lease agreement: (1) the date, time, and place that a leased item must be returned; and (2) the potential criminal penalties faced by a person who violates the terms of a rental or lease agreement. Makes it a Class D felony if a person knowingly or intentionally fails to return a leased motor vehicle or item of personal property with intent to deprive the property owner of the use of the property.

SB 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.

SB 79 Environmental Rule Review Board (Kruse R-Auburn)

<http://www.in.gov/legislative/bills/2009/IN/IN0079.1.html>

Prohibits the air pollution control board, water pollution control board, and solid waste management board from adopting a rule that contains a provision that is more stringent than a corresponding federal provision established under federal law until the environmental rule review board approves the rule. Prohibits the environmental rule review board from approving a proposed rule that contains a provision that is more stringent than a corresponding federal provision established under federal law unless the board finds that the provision is necessary to address an emergency situation that is unique to Indiana.

SB 97 Limit on Real Property Assessment Increases (C. Lawson R-Danville)

<http://www.in.gov/legislative/bills/2009/IN/IN0097.1.html>

Limits the annual increase in the gross assessed value of real property to 10% unless the increase results from a factor that would have increased the assessed value even if neither an annual assessment adjustment nor a general assessment applied.

SB 123 Homeowners association election disputes (Walker R-Columbus)

<http://www.in.gov/legislative/bills/2009/IN/IN0123.1.html>

Requires the parties to a dispute involving the election of a director or an officer of a homeowners association or condominium association to attempt to resolve the dispute through the use of mediation before bringing an action in a court. Provides that, if the parties cannot resolve the dispute and an action is brought in a court, the court: (1) may, on its own motion; and (2) shall, upon the motion of any party to the dispute; refer the case to any appropriate type of alternative dispute resolution selected by the court under the Indiana supreme court rules for alternative dispute resolution.

SB 179 Annexation (Buck R-Kokomo)

<http://www.in.gov/legislative/bills/2009/IN/IN0179.1.html>

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.

SB 201 State Energy Policy (Gard R-Greenfield, Merritt R-Indianapolis)

<http://www.in.gov/legislative/bills/2009/IN/IN0201.1.html>

Authorizes the utility regulatory commission to determine the applicability of local zoning requirements to certain public utilities. Requires the economic development corporation, in conjunction with the utility regulatory commission, to allow the recovery of reasonable and necessary costs incurred by a public utility in connection with a green infrastructure project that provides electric or gas service to or receives electric or gas service from an alternate energy production facility.

SB 202 Lead-Base Paint Activities (Gard R-Greenfield)

<http://www.in.gov/legislative/bills/2009/IN/IN0202.1.html>

Lead-based paint activities. 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. Repeals current provisions governing the IDEM lead-based paint activities program.

SB 220 Annexation (Gard R-Greenfield)

<http://www.in.gov/legislative/bills/2009/IN/IN0220.1.html>

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.

SB 255 Landlord-Tenant Agreements (Breau D-Indianapolis)

<http://www.in.gov/legislative/bills/2009/IN/IN0255.1.html>

Allows a landlord to terminate immediately the rental agreement of a person charged with a criminal offense committed on the rental premises. Authorizes the landlord to obtain an emergency possessory order to evict a tenant charged with committing a criminal offense on the rental property. Permits the civil forfeiture of rental property or receipts owned or possessed by a landlord if the landlord knowingly fails to report the commission of a criminal offense on the rental property or if the landlord receives rent that the landlord knows or reasonably should have known was derived from criminal activity committed on the rental property. Makes conforming amendments.

SB 284 International Energy Conservation Code (Errington D-Muncie)

<http://www.in.gov/legislative/bills/2009/IN/IN0284.1.html>

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.

HB 1047 Environmental Rule Review Board (Pond R-New Haven)

<http://www.in.gov/legislative/bills/2009/IN/IN1047.1.html>

Prohibits the air pollution control board, water pollution control board, and solid waste management board from adopting a rule that contains a provision that is more stringent than a corresponding federal provision established under federal law until the environmental rule review board approves the rule. Prohibits the environmental rule review board from approving a

proposed rule that contains a provision that is more stringent than a corresponding federal provision established under federal law unless the board finds that the provision is necessary to address an emergency situation that is unique to Indiana.

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

<http://www.in.gov/legislative/bills/2009/IN/IN1088.1.html>

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.

HB 1096 Mortgage Deduction Application (Barnes D-Indianapolis)

<http://www.in.gov/legislative/bills/2009/IN/IN1096.1.html>

Provides that a sales disclosure form properly filed by the purchaser of a residence constitutes an application for the mortgage deduction.

HB 1098 Illegal Immigrant Matters (Tincher D-Terre Haute)

<http://www.in.gov/legislative/bills/2009/IN/IN1098.1.html>

Requires the superintendent of the state police department to negotiate terms of a memorandum of understanding concerning a pilot project for the enforcement of federal immigration and customs laws. Prohibits an employer from knowingly employing, after June 30, 2010, an unauthorized alien. Authorizes the attorney general to: (1) investigate a complaint that an employer knowingly employed an unauthorized alien; and (2) notify United States Immigration and Customs Enforcement and the department of labor (department) under certain conditions. Authorizes the department to initiate administrative proceedings against an employer for knowingly employing an unauthorized alien. Requires employers to verify the employment eligibility of an employee through the federal employment verification pilot program. Prohibits the department from initiating an administrative proceeding against an employer that verifies the employment authorization of an employed individual through the pilot program. Establishes an affirmative defense if the employer complied in good faith with the federal employment verification requirements. Makes it a Class B misdemeanor to file a complaint, knowing the complaint is false or frivolous, with the attorney general. Prohibits a governmental body from

enacting an ordinance, resolution, rule, or policy that prohibits or limits another governmental body from sending, receiving, maintaining, or exchanging information on the citizenship or immigration status of an individual. Prohibits a state agency or political subdivision from entering into or renewing a public contract for services with a contractor if the state agency or political subdivision knows that the contractor employs or contracts with unauthorized aliens. Allows a contractor of a public contract for services to terminate a contract with a subcontractor if the subcontractor employs or contracts with unauthorized aliens. Requires the department of workforce development to verify the lawful presence of certain individuals to determine the individual's eligibility for unemployment benefits through the SAVE program.

HB 1114 Septic Tanks and Sewer Systems (Cheatham R-North Vernon)

<http://www.in.gov/legislative/bills/2009/IN/IN1114.1.html>

Provides that the Indiana department of environmental management (IDEM) may not require a county to join or form a regional sewage district to provide sewer service to an unincorporated area of the county unless IDEM determines that the population density of the unincorporated area exceeds the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue septic system use. Requires the legislative body of a county that contains unincorporated areas to adopt an ordinance establishing the minimum population density at which property owners in an unincorporated area of the county may be required to discontinue septic system use. Provides that a regional sewage district may not require a property owner to connect to a sewer system if the property is: (1) located in an unincorporated area; and (2) served by a septic system that is, as determined by local health department, functioning satisfactorily.

REGULATORY

RULE PACKAGE HEADED TO ATTORNEY GENERAL'S OFFICE

The Fire Prevention and Building Safety Commission adopted the proposed rule to amend 675 IAC 14-4.3, the 2005 Indiana Residential Code, to clarify Sections R408.1 on ventilation as well as R703.7.4.2 and R703.7.4.3 on air space with the following modification: As an alternate method to apply stone and masonry veneer, mortar or grout shall be permitted to fill the air space when the ~~following requirements are met~~ requirements of this Section R703.7.4.3 are met. The rule package will be sent to the Attorney General. IBA supported the rule.

NAHB NEWS

NEW HOME SALES CONTINUE DOWNWARD IN NOVEMBER

Sales of newly built single-family homes declined 2.9 percent in November to a seasonally adjusted annual rate of 407,000 units, according to newly released numbers from the U.S. Commerce Department. This was the slowest sales pace reported since January 1991.

BUILDER CONFIDENCE REMAINS AT AN ALL-TIME LOW

According to the latest NAHB/Wells Fargo Housing Market Index (HMI), builder confidence did not budge this month from November's all-time low reading. NAHB Chief Economist David Crowe believes the results are understandable given the increasing degree of economic turmoil, worsening jobs picture and ongoing flow of foreclosed homes onto the market.

U.S. EPA PROPOSES FIRST NATIONAL EFFLUENT DISCHARGE LIMITS

The U.S. Environmental Protection Agency (EPA) has proposed the first national effluent discharge limit guidelines (ELG's) for storm water runoff from construction sites. The proposal calls for builders to meet EPA's technology-based "floor" on construction sites by installing and maintaining a range of erosion and sediment controls that, according to EPA are "generally recognized and accepted as effective" best management practices (BMP's). EPA needs to hear from you on the importance of retaining a storm water program that is flexible, cost efficient, understandable, and workable on the ground. The 90-day comment period for this proposed rule ends on Thursday, February 26. To view the ELG proposal, visit www.epa.gov/waterscience/guide/construction. To submit comments, please visit <http://www.epa.gov/fedrgstr/EPA-WATER/2008/November/Day-28/w27848.htm> for instructions. For more information, contact Ty Asfaw at easfaw@nahb.com or call her at (800) 268-5242 ext. 8124.

REMODELERS STRUGGLE WITH CLIENTS' LOWER CREDIT LINES

As the nation's credit crunch spreads into the remodeling market, undermining the financial viability of many projects, remodelers are reporting some success working proactively with customers and lenders to avoid problems with financing remodeling projects. When finalizing jobs, remodelers need to work closely with their clients in understanding how they intend to finance the work. Some suggest that clients tap their lines of credit and set aside the money so it is available when they need to pay bills. Remodelers can also ask their customers to obtain a guarantee letter from the bank to confirm the amount and availability of the line of credit.