

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #11
March 20, 2009

Rick Wajda- (800) 377-6334 -rick@buildindiana.org
Gretchen White- (800) 377-6334 -gretchen@buildindiana.org
Carlie Hopper- (800) 377-6334 -carlie@buildindiana.org

House of Representatives- (800) 382-9842
Indiana Senate- (800) 382-9467

NEWS/HIGHLIGHTS

GOVERNOR ANNOUNCES ENERGY CONSERVATION EFFORTS

This morning Governor Mitch Daniels announced plans to utilize stimulus dollars directed to energy conservation and weatherization activities. The plan will spend \$131.8 million in federal stimulus funding for energy conservation and hopes to reach more than 300,000 low-income households who have already qualified for the state's Energy Assistance Program. The plan invests up to \$5,000 per household, beginning with an energy audit, and followed by installation of energy savings equipment such as programmable thermostats, LED lighting, insulation, caulking or even new furnaces or hot water heaters. IBA plans to submit a bid to administer the funds once a Request for Proposals has been released by the state. For more details on the announcement, please visit http://www.in.gov/portal/news_events/37101.htm and stay tuned for further updates from IBA.

NEW HOME CONSTRUCTION SURGES

The Commerce Department recently reported that the construction of new homes and apartment jumped 22.2 percent from January to a seasonally adjusted annual rate of 583,000 units. Economists were expecting construction to drop to a pace of around 450,000 units. The surge is believed to be connected to a big increase in apartment construction.

PLAN TO ATTEND NAHB LEGISLATIVE CONFERENCE NEXT WEEK

Mark your calendars and book your airfare, next Tuesday, March 24th is the NAHB Legislative Conference in Washington, D.C. The conference comes at a pivotal time in the Housing industry and will be pushing legislative ideas focused on the overall housing economy, AD & C Lending and the mortgage interest deduction. For more information and to register, please visit www.nahb.org/legcon.

IBA SETS MEETINGS WITH INDIANA DELEGATION IN D.C.

IBA has tentatively scheduled meetings with Senator Richard Lugar, Senator Evan Bayh, Congressman Mike Pence, Congressman Dan Burton, Congressman Mark Souder, and Congressman Joe Donnelly during the NAHB Legislative Conference on March 24th. IBA staff is awaiting meeting confirmation with other members of the delegation. Please contact IBA if you have an interest in attending meetings with the delegation in Washington, D.C. on March 24.

CAN'T MAKE THE NAHB LEGISLATIVE CONFERENCE? DO YOUR PART

NAHB members unable to come to the Legislative Conference next week to reinforce the NAHB legislative message are urged to call their Senators and Representatives while their peers are on Capitol Hill. Local HBAs are encouraged to organize district visits with Congressional staff in lieu of attending the Legislative Conference.

NEW LAW EXTENDS NET OPERATING LOSS CARRYBACK FOR SMALL BUSINESSES

The Internal Revenue Service recently announced that small businesses with deductions exceeding their income in 2008 can use a new net operating loss tax provision to get a refund of taxes paid in prior years. The new provision, enacted as part of the American Recovery and Reinvestment Act of 2009, enables small businesses to elect to offset this loss against income earned in up to five prior years. For more details, please visit

<http://www.irs.gov/newsroom/article/0,,id=205329,00.html>.

ESTRIDGE COMPANY TAPPED BY 'EXTREME MAKEOVER'

The Estridge Company, a Carmel-based residential construction firm, is teaming with popular TV show "Extreme Makeover: Home Edition" to build a home for an Indianapolis-area family. The Indianapolis episode of "Extreme Makeover: Home Edition" is slated as the two-hour season finale tentatively scheduled to air May 17. More than 60 companies and 650 people have volunteered to donate labor, supplies and materials to help Estridge build the home.

LEGISLATIVE

UNEMPLOYMENT INSURANCE TRUST FUND PROPOSAL ADVANCES

The Senate Tax and Fiscal Policy Committee unveiled a new proposal to fix the Unemployment Insurance Trust Fund this week and approved it 9-3, along party lines. The proposal, amended into House Bill 1379, provides a surcharge in 2009 for 10% of the employer's applicable rate under 2009 schedule and taxable wages payable in two installments. The taxable wage base would increase in 2010 from \$7,000 to \$10,000. The maximum benefit of \$390 would be increased to \$424 for the first four weeks but eventually drop to \$310 in weeks 8-26. Another provision of the proposal would allow companies that lay off employees for several weeks at a time every year to opt out of the unemployment system or reimburse the state for nearly all the costs of benefits for their employees.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&session=1&request=getBill&ocno=1379>

GREEN BUILDING MANDATE TO BE HEARD IN COMMITTEE

House Bill 1620, requiring certain government buildings to be designed and constructed to achieve or achieve the level of energy efficiency required under certain rating systems will be heard Monday morning in Senate Energy and Environmental Affairs Committee. IBA opposes the mandate portion of this legislation and plans to testify at the hearing.

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&session=1&request=getBill&ocno=1620>

ENERGY CODE MANDATE TO BE HEARD IN COMMITTEE

The Senate Energy and Environmental Affairs Committee will amend and vote on House Bill 1348, dealing with energy efficiency, on Monday, March 23rd. House Bill 1348, requires the fire prevention and building safety commission to adopt the most recent edition of: 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.

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

LEGISLATION OF INTEREST

Senate Bill 21 Theft of Metal (Broden D-South Bend)

Expands the definition of "valuable metal", and removes the provision exempting valuable metal transactions under \$100 from reporting requirements. Specifies that the term "valuable metal" does not apply to a beverage can. Requires a valuable metal dealer to photograph the person from whom the dealer purchases valuable metal and the valuable metal being purchased and to record the source of the valuable metal. Requires the superintendent of the state police to notify valuable metal dealers of valuable metals that are particularly susceptible to theft. Defines "key facility" and makes trespassing a Class D felony if it is committed on a facility belonging to a key facility or public utility. Raises theft and receiving stolen property to a Class C felony if the stolen property is a valuable metal taken from a key facility, public utility, railroad, or highway department and the absence of the metal creates a substantial risk of bodily injury to a person. Requires the law enforcement training board to adopt rules to provide, as part of the in service training program for police officers, training concerning the theft of valuable metals and the regulation of valuable metal dealers. Makes a technical correction. Repeals obsolete provisions relating to the definition of valuable metals. (The introduced version of this bill was prepared by the sentencing policy study committee.)

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=21>

The bill was heard in the House Courts and Criminal Code Committee this week and was approved 12-0. The bill now moves to the full House for further debate.

Senate Bill 478 Improper classification of workers (Kruse R-Auburn)

Provides for the sharing of information concerning the classification of individuals as independent contractors in the construction industry 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>

The bill was approved by the House Labor and Employment Committee earlier this week 9-0. The bill now moves to the full House floor for further debate.

House Bill 1081 Rental Property Foreclosure Notices (Day D-Indianapolis)

Requires the owner or former owner of residential real property containing four or fewer rental units 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 or former owner. Authorizes a tenant to bring a civil action if the owner or former 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) an action in which the plaintiff states in the complaint that the foreclosure will not affect the rights of a nondefaulting tenant; and (2) real property where a receiver has been appointed. Makes conforming amendments.

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

This bill was approved in Senate Judiciary Committee this week 7-3 after adopting an amendment to address issues with the bill. The amendment, among other things, restricted the notice to be given to tenants in residential buildings that have one to four units.

House Bill 1176 Residential Mortgage Lending Practices (Reicken D-Evansville)

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.)

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

The bill was approved by the Senate Judiciary Committee 8-0 after adopting an amendment, which among other things, removed provisions mirroring Federal legislation. The bill now moves on to the full Senate for further deliberation.

REGULATORY

CAST YOUR VOTE FOR THE 2006 INTERNATIONAL RESIDENTIAL CODE

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. Several code provisions in the 2009 IRC will significantly increase building costs and many will be difficult for building officials to enforce:

- Fire sprinklers required in all new one- and two-family residences beginning Jan. 1, 2011.
- Fire sprinklers in all new townhomes when the code is adopted.
- Carbon monoxide alarms required in new construction dwelling units with fuel-fired appliances, and in existing homes where interior alterations include fuel-fired appliance replacements or attached garages.
- New guidelines for the design and construction of homes in high wind regions, based on the International Code Council's Standard for Residential Construction in High Wind Regions, ICC 600.

- New guidelines for the design and construction of storm shelters, based on the new International Code Council/National Storm Shelter Association (NSSA) Standard for the Design and Construction of Storm Shelters, ICC 500-2008.
- Programmable thermostats in new homes and buildings with forced air furnaces.
- High-efficiency light bulbs in at least 50% of permanent lighting fixtures in new homes.
- Maximum fenestration U-factors are lowered in warmer climates to reduce the amount of heat loss or gain through windows and doors to lower energy costs during cooling periods.
- An increase in insulation R-values for walls, floors and basements in cold climates to achieve heating and cooling savings.
- Can no longer tradeoff equipment in lieu of building envelope requirements to comply with Chapter 11 (Energy Efficiency).
- Duct leakage testing if ductwork is located outside the thermal envelope.

At its next meeting on April 9th, Indiana's Fire Prevention & Building Safety Commission's 2009 Residential Code 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 (IABO), and tell them to pick '06 in '09. For contact information, please e-mail Carlie@BuildIndiana.org.

CHANGES TO THE STATE'S FIRE AND BUILDING CODES

The Fire Prevention and Building Safety Commission intends to adopt two rules to add previously omitted sections and make substantive and clarifying changes to the state's fire and building codes. The first proposed rule, LSA Document #09-187, amends [675 IAC 22-2.4](#), the 2008 Indiana Fire Code, and the second proposed rule, LSA Document #09-186, amends [675 IAC 13-2.5](#), the 2008 Indiana Building Code. The proposed rules will be published in the Indiana Register in 28 days with information on the public hearing. For copies of the proposed rules, please e-mail Carlie@BuildIndiana.org.

NAHB NEWS

NAHB, HIGH-PRODUCTION BUILDERS MEET

Leadership from NAHB and NAHB's High Production Home Builders Council (HPHBC) met this week to discuss issues of concern to the HPHBC and later issued a joint statement in response to media inquiries. The two groups agreed to have additional discussions in the near future and build on many mutual interests in an effort to strengthen the industry. In addition, Jerry Howard continues as President and CEO of NAHB.