

INDIANA BUILDERS ASSOCIATION
Legislative and Regulatory Report #9
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NEWS/HIGHLIGHTS

IBA SETTLES INTO PERMANENT SPACE

IBA has completed the move into the permanent space at 101 W. Ohio Street, Suite 1111 in Indianapolis, 46204. IBA staff can now be reached at (317) 917-1100, in addition to (800) 377-6334. The new fax number is (317) 917-0335.

NAHB WASHINGTON FLY-IN APPROACHING

IBA members looking to send a message to Congress that housing deserves 100% of their ongoing attention to lead the nation's troubled economy back to higher ground should mark their calendar for the 2009 NAHB Legislative Conference –which will take place on Tuesday, March 24 in Washington, D.C. For details of the Conference, contact Molly Murray at (800) 368-5242 ext. 8282 or visit http://www.nahb.org/meeting_details.aspx?meetingID=17763.

IBA STAFF PITCHES IDEA OF INDIANA TAX CREDIT

IBA staff recently met with staff in the Governor's Office to pitch the idea of creating an Indiana New Homebuyer tax credit up to 10% or \$6,000 of the home purchase price of a newly constructed home with a cap of \$10 million. The Governor's staff will be further evaluating the proposal crafted around the recent IBA board approved policy and IBA staff will be following up. In addition, staff has met with key legislators pitching the tax credit idea.

STATEHOUSE RALLY TO CAP PROPERTY TAXES NEXT WEEK

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 is open for 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 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/lsa/session/billwatch/billinfo?year=2009&session=1&request=getBill&docno=0001&doctype=SJR>

IBA SPEAKS AT FBI MORTGAGE FRAUD WORKING GROUP CONFERENCE

The Indiana Builders Association addressed law enforcement officials from the FBI and other agencies earlier this week to discuss the ongoing issue of mortgage fraud in the housing industry. The FBI has reached out to the IBA and other groups involved in the housing industry to discuss ways to assist in weeding out mortgage fraud in Indiana.

GOVERNOR UNVEILS STIMULUS WEBSITE

Governor Mitch Daniels recently launched a new website to provide information about the federal stimulus package and use of the funds in Indiana. The website is www.INvest.in.gov.

LEGISLATIVE

COMMITTEE DISCUSSES UNEMPLOYMENT INSURANCE TRUST FUND

Two joint Committee hearings between the Senate Labor and Pensions Committee and Senate Tax and Fiscal Policy Committee were held this week to take public testimony regarding the Fund. IBA Past President Stephen Robinson, GMB, GMR, CGB, CGR, CAPS, CGP testified as a small businessman providing real-life examples illustrating issues with administration of the fund and provided suggestions. IBA staff also testified outlining suggestions for legislation.

LEGISLATION REGARDING FORECLOSURE OF TENANT HEARD IN COMMITTEE

House Bill 1081, directed at providing notice to renters when a landlord goes into foreclosure, was heard in Senate Judiciary this week. One of the issues surrounding this bill stems from whether or not all multifamily properties should be required to give notice to tenants or just those in one to four units. Rentals with five or more properties receive commercial loans and could require businesses to also give notice to tenants whereas rentals with one to four units are considered residential mortgages. Another issue deals with whether or not to allow a tenant the ability to break their lease once notified of potential foreclosure. No vote was taken on the bill and amendments as well as a final committee vote will be taken next week.

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

ENERGY CODE LEGISLATION TO BE DISCUSSED IN COMMITTEE

House Bill 1348, dealing with energy efficiency, has been scheduled for a hearing on Monday in the Senate Energy and Environmental Affairs Committee. The bill 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 (ICC); 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 editions of the code or standard not later than two years after the effective date of the subsequent edition.

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

LEGISLATION OF INTEREST

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 last 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 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/lisa/session/billwatch/billinfo?year=2009&request=getBill&docno=1278>

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>

REGULATORY

IDEM SEEKS INPUT ON COMPLIANCE AND ENFORCEMENT PROCESS

The Indiana Department of Environmental Management recently unveiled a new policy to help businesses and citizens understand the agency's compliance and enforcement process. The Compliance and Enforcement Response Policy (CERP) is available for public comment over the next 45 days. CERP categorizes compliance violations into three classes and prioritizes severe

violations. Based on the severity of the violation, the policy directs IDEM's initial response, ranging from an immediate enforcement referral to technical assistance provided by the compliance staff. The CERP can be found at www.idem.IN.gov/4694.htm. Details on the public comment process, including how to submit comments, are included in the webpage.

IRC CHANGES TO VENTILATION AND AIR SPACE EFFECTIVE APRIL 3RD

Governor Daniels has approved the Fire Prevention and Building Safety Commission's 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.

The changes are as follows:

675 IAC 14-4.3-78.5 Section R408.1; ventilation

Sec. 78.5. (a) Add a sentence to Section R408.1 after the first sentence to read as follows: The ventilation openings may be located in the rim joist of the exterior wall.

675 IAC 14-4.3-119 Section R703.7.4.2; air space

Sec. 119. Mortar is permitted to encroach into the air space or make incidental contact with the sheathing or the sheathing paper or equivalent.

675 IAC 14-4.3-120 Section R703.7.4.3; mortar or grout filled

Sec. 120. (b) Change the first sentence to Section R703.7.4.3 to read as follows: As an alternate method to apply stone and masonry veneer, mortar or grout shall be permitted to fill the air space when the requirements of this Section R703.7.4.3 are met.

The rule becomes effective on April 3, 2009. IBA supported the rule.

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. 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 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, and tell them to pick '06 in '09.

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

NAHB NEWS

PRESIDENT OBAMA'S PROPOSED \$3.6 TRILLION BUDGET HITS MORTGAGE INTEREST DEDUCTION

President Barack Obama recently unveiled a \$3.6 trillion budget that would raise taxes on American families earning more than \$250,000 and reduce the value of their mortgage interest and real estate tax deductions to pay for a \$634 billion health care fund for the uninsured. The proposal:

- Limits the mortgage interest deduction, real estate tax deductions and all other itemized deductions for couples making over \$250,000 and single taxpayers earning more than \$200,000;
- Includes a tax increase for homeowners, homebuyers, as well as small business taxpayers who report income on their individual income tax return;
- Increases the capital gains tax to 20% for couples earning more than \$250,000; and
- Provides an expansion of net operating loss (NOL) carry back for all businesses (stimulus legislation limited this to small businesses).

In addition, the bill makes appropriations, some of which include:

- Adds more weatherization funding;
- Provides more funding for OSHA enforcement;
- Eliminates a HUD low income housing program; and
- Creates a HUD energy innovation fund to create an "energy efficient housing market."

CARD CHECK LEGISLATION INTRODUCED IN HOUSE AND SENATE

Several Congressmen introduced legislation (H.R. 1176), the Secret Ballot Protection Act, which would create a firewall against the "card check" legislation that congressional Democrats are expected to introduce within the next few weeks. The Secret Ballot Protection Act would ensure that workers are always given the opportunity to participate in a secret ballot vote when deciding whether to organize into a labor union. The Secret Ballot Protection Act seeks to act as a counterbalance to the Employee Free Choice Act (EFCA), the confusingly-named legislation that would eliminate the requirement that unions and the National Labor Relations Board (NLRB) allow for a secret ballot vote among workers when organizing a workplace to join a union. Labor unions continue to push for passage of EFCA as their number one legislative priority of the 111th Congress. NAHB passed policy in the spring of 2008 opposing EFCA, and any effort to eliminate the secret ballot requirement on labor union organizers. For more information, contact Jenna Hamilton at jhamilton@nahb.com or (800) 368-5242 ext. 8407.

SENATE PANEL HEARS PLEAS FOR AGGRESSIVE NATIONAL BUILDING CODES

The Senate Energy and Natural Resources Committee recently heard testimony from various efficiency advocates asking for Congress to enact national building codes that exceed the existing International Energy Conservation Code (IECC) by 50% for both residential and commercial buildings. Witnesses from the National Association of State Energy Offices (NASEO), Architecture 2030, and the American Council for Energy Efficient Economy (ACEEE) all agreed that the federal government must enact national code requirements that exceed existing I-Codes because the adoption of individual codes on a state by state basis was not working effectively. None of the building industry trade groups was invited to testify at the hearing, but many, including NAHB, are weighing directly with committee members on the issue of codes in advance of upcoming energy legislation that will likely attempt to mandate aggressive nationalized codes for residential and commercial buildings. For more information, contact Elizabeth Odina at eodina@nahb.com or (800) 368-5242 ext. 8570.

NAHB RESEARCH CENTER TO LIST 'GREEN APPROVED' PRODUCTS

With the introduction of the "Green Approved" product seal of approval by the NAHB Research Center, manufacturers can now provide third-party evidence that their green products meet the criteria for recognition in homes certified by the American National Standards Institute's National Green Building Standard. For more details visit <http://www.nbnnews.com/NBN/new/downloads/march2green.pdf> or contact Lynda Marchman at the Research Center by calling (800) 638-5242 ext. 6237.