

INDIANA BUILDERS ASSOCIATION  
Legislative and Regulatory Report #6  
February 16, 2007

Rick Wajda- (800) 377-6334- [rick@buildindiana.org](mailto:rick@buildindiana.org)  
Roger Stephens- (800) 377-6334- [rogers@bagi.com](mailto:rogers@bagi.com)  
Brooke Burtnett- (800) 377-6334- [brooke@buildindiana.org](mailto:brooke@buildindiana.org)

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

## **HIGHLIGHTS**

The Federal Reserve held monetary policy steady at the Federal Open Market Committee (FOMC) held at the end of January. The Federal Reserve has held its target for the funds rate at 5.25% since the middle of 2006. This level is considered a “neutral” monetary policy position in the current inflation environment. Although incoming data on the economy has been quite strong lately, long rates have receded recently. The long-term mortgage rate is holding steady at 6.25%, which is the same as the previous year. The Treasury yield curve is inverted across much of its range and NAHB predicts an essentially flat Treasury yield curve by late 2007. The long-term mortgage rates are not expected to move above 6.5% this year.

### **Housing Demand Stabilized**

Factors such as a healthy job market, increased household income, and receding energy costs contributed support to the housing demand in the latter part of '06. Despite formidable seasonal adjustment issues, housing demand had apparently stabilized in fundamental terms towards the end of 2006. However, there appears to be some improvement coming our way. In fact, the FOMC report in December of '06 stated, “substantial cooling of the housing market” but the January statement said, “Some tentative signs of stabilization”.

The fourth-quarter averages for both existing and new single-family homes have increased a bit from their third-quarter averages. Additionally, NAHB's single-family Housing Market Index has continued to move upward. The February HMI was at 40; which was up from a low 30 in September.

The Mortgage Bankers Association also supports the proposition that the housing demand has stabilized. Congress was told this week that measures of home buyers response has recently been on the rise. NAHB continues to receive data from surveys that provide some reassuring signs on the demand from single-family market as well.

### **Indiana Leads the Nation in Rise of Home Sales**

Indiana had the largest increase in the nation for home sales in the fourth quarter, according to the National Association of Realtors. The 13.7% gain was way ahead of the 10.1% overall national decline in sales of condominiums and single-family houses. As a

region, the Midwest declined 8.6 %. In the nation, only 5 states besides Indiana had an increase.

## LEGISLATIVE

### MECHANIC'S LIENS BILL VOTE ON MONDAY

#### **HB 1163 Subcontractors Liens (Orentlicher, D-Indianapolis)**

<http://www.in.gov/legislative/bills/2007/IN/IN1163.1.html>

Provides that a contractor must pay all subcontractors within five business days after receiving payment from a homeowner or builder. Provides that a builder must disclose to a purchaser all subcontractors used in new home construction. Requires a contractor to provide notice to all subcontractors when the contractor has been paid by a homeowner or builder. Prohibits a subcontractor from filing a lien against a property if the primary contractor has received full payment for the contract. Allows a subcontractor to file an action against a prime contractor to recover any unpaid claims due under a contract between the prime contractor and the subcontractor.

*IBA has worked with the author of the bill and Chair of the Committee to discuss IBA's problems with the legislation, which includes more paperwork requirements for reputable contractors. IBA remains opposed to the bill. Committee members are:*

- [David Orentlicher](#) (CHAIR)
- [Carolene Mays](#) (VCHAIR)
- [Timothy Harris](#) (RMM)
- [Randy L. Borrer](#)
- [James Russell Buck](#)
- [David L. "Dave" Crooks](#)
- [Tom Dermody](#)
- [Phillip D. Hinkle](#)
- [David L. Niezgodski](#)
- [Mara Candelaria Reardon](#)
- [Scott Reske](#)
- [Steven R. Stemler](#)

*If your State Representative is on this Committee, please ask them to vote NO.*

## GREEN BUILDING

#### **HB 1812 Energy Efficient Buildings (Pierce, D-Bloomington)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&session=1&request=getBill&docno=1812> Requires a public works contract that is for the construction of a public building or structure and is entered into after December 31, 2007, to require that the building or structure must meet at least the silver rating under the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system or an equivalent rating system, such as a Two Globes rating system under the

Green Building Initiative's Green Globes rating system. Requires a public works contract that is for the reconstruction, repair, alteration, or retrofitting of a public building or structure and is entered into after December 31, 2007, to require that the building or structure must meet at least the standards for existing buildings under the LEED rating system or an equivalent rating system. Allows a county fiscal body to adopt an ordinance providing a deduction from the assessed value of a newly constructed building or a rehabilitated building that is certified to meet the LEED rating system or an equivalent rating system. Requires the ordinance to specify the amount of the deduction. 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.

*HB 1812 was heard and voted on in the House Environmental Committee this week. The Chairman of the Committee, Representative Ryan Dvorak (D-South Bend) offered an amendment to the bill, which essentially merged Representative Pierce's and Representative Austin's legislation together and added the green building initiative, Green Globe wherever LEED is mentioned. The bill passed out as amended with an 8-1 committee vote. IBA Staff is working with NAHB and NAHB is comfortable with the bill as amended but would rather see a bill that does not mention specifics to any green building programs or any mandates. Representative Dave Wolkins is expected to present a second reading amendment on the floor this upcoming week that would address NAHB's concern by striking LEED and Green Globe within the bill and inserting "any recognized green building rating system".*

## **REAL ESTATE RECORDING FEES**

### **HB 1351 Affordable Housing and Community Development Fund (Bardon, D-Indianapolis)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1351>

Allows a county in which at least one unit in the county has established an affordable housing fund to adopt an ordinance authorizing the county recorder to charge a fee of: (1) \$5 for the first page; and (2) \$1 for each additional page; of each document recorded by the county recorder. Provides that: (1) 60% of the fees collected shall be distributed to those units with an affordable housing fund for deposit in those funds; and (2) 40% of the fees shall be deposited in the affordable housing and community development fund. Prescribes a formula for apportioning the fees collected among the units with affordable housing funds. Allows a county containing a consolidated city to adopt an ordinance authorizing the county recorder to charge a fee of: (1) \$5 for the first page; and (2) \$1 for each additional page; of each document recorded by the county recorder. Provides that: (1) 60% of the fees collected shall be deposited in the county's housing trust fund; and (2) 40% of the fees shall be deposited in the affordable housing and community development fund. Provides that, beginning July 1, 2007, on July 1 of each year, the interest balance in the property custody fund and the interest balance in the abandoned property fund shall be transferred to the affordable housing and community development fund. (Current law

provides that on July 1 of each year, the interest balance in the property custody fund and the interest balance in the abandoned property fund shall be transferred to the state general fund.)

*HB 1351 was heard in the Financial Institutions Committee this week. IBA staff has worked with Representative Bardon on this bill and expressed their concern with the recording fees. Representative Bardon offered an amendment to the bill that lowered the fees from \$10 on the first page to \$5 and from \$2 on every page after to \$1. Also, Representative Woody Burton offered an amendment in Committee that states that the interest balance in the abandoned property fund be transferred to the state general fund. Representatives from the Indiana Attorney General's office were present at the committee and testified in favor to the amendment. The bill passed out of committee, as amended. It must also pass out of the House Ways and Means Committee next week. IBA staff will continue to monitor the bill's process. IBA will oppose any amendments that increase the cost of housing that is not borne by all taxpayers.*

## **NEW HOME CONSTRUCTION PROPERTY TAX ESTIMATES**

### **HB 1525 New Home Construction and Homeowner Education (Murphy, R-Indianapolis)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1525>

Provides that after June 30, 2007, a builder may not enter into a home construction contract with a prospective home buyer unless the builder first gives the prospective home buyer a written estimate of the property taxes that: (1) will be owed by the prospective home buyer on the new home; and (2) are based on an assessment made on the first assessment date after the construction of the new home is complete. Specifies that the required estimate may not be based on an assessment of unimproved real estate. Requires the Indiana housing and community development authority (authority) to prescribe a form to be used by builders in making the required disclosure. Defines an "at risk home buyer" as a person who: (1) has a credit score that is less than 620; and (2) seeks to obtain a home loan from a creditor. Requires the authority prepare and make available to creditors home ownership educational materials for use by at risk home buyers. Provides that after June 30, 2007, a creditor may not enter into a home loan with an at risk home buyer unless the creditor first gives the at risk home buyer the educational materials prepared by the authority.

*HB 1525 was heard in the Committee of Financial Institutions this week. The bill was amended and passed out of the Committee with a 7-0 vote. The bill will be heard on the House Floor before the House of Representatives this upcoming week.*

## **MORTGAGE FORECLOSURE COUNSELING**

### **HB 1753 Mortgage Foreclosure Counseling (Summers, D-Indianapolis)**

<http://www.in.gov/apps/lisa/session/billwatch/billinfo?year=2007&request=getBill&docno=1753>

Requires the Indiana housing and community development authority (authority) to establish a program to provide free mortgage foreclosure counseling and education to homeowners who have defaulted on or are in danger of defaulting on the mortgages on their homes. Provides that the program must include a central toll free telephone number that homeowners may call to receive mortgage foreclosure counseling and education. Authorizes the authority to award grants for the training of counselors who will provide mortgage foreclosure counseling and education. Provides that the authority may establish standards for the certification of counselors. Establishes the foreclosure prevention counseling and assistance fund for purposes of carrying out the authority's powers and duties under the program. Provides that \$1.25 of the mortgage recording fee shall be distributed to the fund (rather than to the state general fund). Specifies that money in the fund is appropriated continuously to the authority for the authority's use in carrying out the program. Provides that the authority may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the program. Requires the authority to submit a report to the legislative council annually.

*HB 1753 was voted out of the Family, Children, and Human Affairs Committee this week with a 9-0 vote and will head to the House floor this week for a final vote.*

## **STORMWATER AND WETLAND FEES**

### **SB 432 Environmental Fees (Gard, R- Greenfield)**

<http://www.in.gov/legislative/bills/2007/SB/SB0432.1.html>

Modifies various environmental fees.

*SB 432 was heard in the Senate Committee of Tax and Fiscal Policy on February 7<sup>th</sup>. The bill was amended and voted out with a unanimous vote of 10-0. IBA staff met with the Commissioner of IDEM and the Governor's Office earlier this week to discuss the housing industry's concerns with the fee increase language. Rule 5 NOI fees would go from \$100 to \$400 under the proposed legislation and certain wetland permit fees would be instituted as well. IBA is working with IDEM on their justification for the fee increase and will attempt to amend the bill as it moves through the process.*

## **INDIANA COMMERCE CONNECTOR AND ILLIANA EXPRESSWAY BILL PASSES SENATE**

### **SB 1 Indiana Commerce Connector and Illiana Expressway (Wyss, R- Fort Wayne)**

<http://www.in.gov/legislative/bills/2007/SB/SB0001.2.html>

For purposes of the statute concerning tollways, permits the designation of the Indiana Commerce Connector, the Illiana Expressway, or both (instead of a part of Interstate Highway 69) as a tollway. For purposes of the statute governing public-private agreements concerning toll roads, deletes the prohibition against a public-private agreement (without legislative authorization) that would permit an operator to impose tolls for the operation of motor vehicles. Provides that, for purposes of statutes governing public-private agreements concerning toll road projects, neither the Indiana finance authority nor an operator may issue a request for proposals for or enter into a public-

private agreement (other than for the Indiana Commerce Connector or the Illiana Expressway) unless the general assembly enacts a statute authorizing that activity. For purposes of the statute governing public-private agreements by the department of transportation: (1) authorizes public-private agreements for the Indiana Commerce Connector, the Illiana Expressway, or both (instead of a part of Interstate Highway 69); and (2) deletes the current authority for offerors that submit a proposal on a project that consists in whole or in part of a tollway to submit alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway. For purposes of the statute governing the designation of state highways as tollways, permits the designation of the Indiana Commerce Connector, the Illiana Expressway, or both (instead of a part of Interstate Highway 69) as a tollway without legislative authorization. Creates legislative review committees for proposals concerning the Indiana Commerce Connector and the Illiana Expressway.

***SB 1 was heard before the Senate Chambers on February 12<sup>th</sup>. It passed the Senate with a vote of 36-13. The bill now moves to the House for consideration.***