

INDIANA ASSOCIATION OF REALTORS®

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Legislative Report Week Ending April 17, 2015

Less than two weeks remain before the members of the Indiana General Assembly adjourn their 2015 session. We are past the deadline for bills to return to their house of origin and are now in that hectic period when state Representatives and Senators must come together in conference to work out the differences they may have on bills that were approved by both houses, but in different form. The biennial state budget goes back to the chopping block after state revenue figures came in below projections. Legislators are still working out differences on the expansion of gaming, ethics reform, and several tax issues including the assessment of “dark sites” owned by big box retailers.

Here’s an update on legislation most important to REALTORS® --

Risk Reduction Language Added to Priority Legislation

[Senate Bill 408](#), authored by state Senator James “Jim” Merritt (R) of Indianapolis, clarifies confusion in the Indiana Code regarding the term Managing Broker and creates a new definition for Broker Companies. The legislation more clearly lays out the duties and responsibilities of an individual Managing Broker versus those of the Broker Company. It also reasserts the current interpretation of the Indiana Real Estate Commission that every company must have a Managing Broker.

SB 408 now provides Indiana-licensed real estate Brokers with greater protection against frivolous lawsuits, as the risk reduction language originally introduced as Senate Bill 411 is an approved amendment to it. The amended SB 408 protects Brokers against claims which are the result of negligent third-party reports or statements. It clarifies that a real estate licensee shall not be liable for statements made by third parties like engineers, land surveyors, geologists, environmental hazard experts, wood-destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false. Other provisions limit Broker liability for third party reports, information in the seller’s disclosure, and information obtained by the seller, government entity, or certified professional.

After the amended SB 408 passed the House by a unanimous vote of 95-0, Senator Merritt quickly filed



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a motion to concur with the House change. SB 408 is now eligible for a final vote in the Senate, which we expect to be favorable.

Thank you to Senator Merritt, state Representative and House sponsor Bob Morris (R) of Fort Wayne, and state Representative Ben Smaltz (R) of Auburn, chairman of the House Commerce committee, for taking up our cause. They are true REALTOR® Party champions!

Sales Tax on Services Bill Dead, Issue Lives On

[Senate Bill 560](#) is dead. That's the legislation authored by state Senator R. Michael Young (R) of Indianapolis that would have extended the state sales tax to services in order to pay for a property tax exemption on primary residences and business personal property. Senator Young excluded health care, health insurance policies, and charitable services from his proposed sales tax extension, but not real estate. Fortunately, state Senator Brandt Hershman (R) of Buck Creek declined to hear SB 560. Senator Hershman is the chairman of the state Senate Tax and Fiscal Policy Committee, the committee assigned the legislation. The immediate threat to our industry is over. But the issue lives on. In fact, the *Indianapolis Business Journal* recently [editorialized in support of a statewide sales tax on services](#). The IAR Government Affairs team continues to educate state legislators on the detrimental effect a sales tax on services would have. We're also organizing a coalition of other business groups to ensure the loudest voice possible in opposition to taxing services. We will be ready next session.

Should All Landlords Be Required to Participate in Section 8?

Indiana REALTORS® say no. And that's why IAR supports [House Bill 1300](#) authored by state Representative Jud McMillin (R) of Brookville. This legislation pre-empts a local unit of government in Indiana from passing an ordinance requiring all landlords to participate in a Section 8 program of the federal Housing Act or similar housing program. HB 1300 arose in the wake of attempts by the city of Indianapolis to press for such requirements. Many REALTORS® are also landlords and many of those have had a long history of success with Section 8 programs. However, those same REALTORS® feel strongly that participation should be up to the landlord, not mandated by local government. A hat tip to the Metropolitan Indianapolis Board of REALTORS® Government Affairs team and members who defeated Indy's efforts, thus allowing time for a statutory fix at the state Capitol. The state Senate amended HB 1300 and it is now up to the House to accept the changes or iron out differences in a conference committee. We will continue to monitor the legislation's progress.



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Bill Caps HOA Fees and Requires Disclosure of Covenants

IAR supports provisions contained in [House Bill 1286](#), authored by state Representative (and REALTOR®) Woody Burton (R) of Greenwood, that would require sellers to disclose any applicable homeowners association covenant prior to completing a transaction. The sales contract already requires this. But HB 1286 would more clearly place the burden on the seller and bring consistency to the exchange of this type of information prior to closing. HB 1286 would also cap the fee an HOA may charge a member who requests certain information prior to closing. IAR has long heard complaints of hefty HOA fees for the release of information to a member. This legislation has the state Senate's approval. It is now eligible for a final vote in the House, which we expect to be favorable.

Bill to Collect Delinquent Taxes Goes Too Far

IAR is working closely with Evansville area state Representatives Gail Riecken (D) and Holly Sullivan (R) to modify an amendment Representative Sullivan offered to [Senate Bill 486](#) that would require property owners to submit large volumes of information prior to receipt of a building permit or any type of tax incentive. The intent is one IAR supports – to provide a tool for local units of government in Indiana to collect delinquent property taxes. However, the current language is too broad; it could delay a “good actor” who made a simple mistake. We need to first determine whether local governments need additional authority to collect delinquent taxes. If so, we need to provide that authority without creating an undue burden on taxpayers seeking permits and incentives. We will continue to report our progress.

