

Last Week in Springfield - HBAI Legislative Update

The Illinois General Assembly has shown little regard for the “basically obliterated” (Crain’s Chicago Business 2/1/10) home building industry over the last two weeks.

Two weeks ago, the Senate Local Government Committee passed SB 3001 (Garrett), legislation enabling Counties to implement a tax on real estate related document filings. The Lake County tax increase initiative is intended to create funds for “affordable housing”. The Illinois County with the least affordable local building and zoning requirements is exacerbating the problem by creating an additional tax on housing. Furthermore, the State of Illinois already operates an Affordable Housing Trust Fund, paid for with a similar tax. Interestingly, Lake County has **NEVER** applied for funding from the Fund. Yet, they propose creating an additional tax for their own program. However, the Senate Local Government committee overwhelmingly approved the proposal by a vote of 6-2-0, despite intense opposition from HBAI and the Illinois Association of Realtors.

The lack of support for the residential construction industry continued last week when all 3 of HBAI’s legislative initiatives were scheduled for hearing in their respective legislative committees. Not a single one of the three was called for a vote.

HB 5071 (Black) was called before the House Business and Occupational Licensure Committee, however the Committee failed to vote on the measure. HB 5071 is an HBAI initiative that seeks to delete predatory restrictions on salespersons of home builders that were included in the Real Estate License Act. In 2009, the Illinois Association of Realtors placed significant restrictions on a homebuilder’s ability to employ sales associates for owned property. The Act mandates that the salesperson must comply with the IRS test that defines “employee”, and may not be an “independent contractor” according to the IRS. These provisions impose a blanket policy mandate on an employer within Illinois Statute that is a federally protected private determination between an employer and worker. Furthermore, the Act arbitrarily mandates that the employee must work a minimum of 20 hours per week. Clearly, this is an attempt to define the “fixed interval” with which an employee is regular. However, it is clearly way too high of a threshold. Many employers consider their employees to be “regular” by merely working 1 shift per month. Regardless, HB 5071 received a moderate level of debate on Wednesday in the Business and Occupational Licensure Committee. However, Committee members recommended that HBAI and IAR meet to discuss the issue, despite repeated failed attempts by HBAI to negotiate the legislation. HB 5071 will be called again this Wednesday in the same committee.

Two other HBAI initiatives fell victim to the Senate’s self-imposed deadline for legislation to pass out of Committee last week. Neither SB 2997 (Demuzio) nor SB 3528 (Wilhelmi) were called for a vote in the Senate Revenue Committee. Despite hearing testimony from Senior NAHB Economist Elliot Eisenberg on the government revenue and job creation benefits of new construction, the Senate Revenue Committee sent both legislative measures to sub-committees, rather than consider either with a vote. SB 2997 creates a \$7,500 income tax credit for purchase of a newly constructed home. SB 3528 withholds assessment of a completed residential structure until actual occupancy of the home.

HBAI will continue to work these legislative initiatives. However it certainly appears, at this time, that the Illinois General Assembly finds little compassion for the housing industry.

Be well and do good.