

GENERAL ASSEMBLY LEGISLATIVE REPORT

Rental Housing sees Tax Relief

The 2008 Indiana General Assembly turned out to be an extremely successful session for the Rental Housing Industry in Indiana.

IAA tracked a record number of bills during this short session and, through strong lobbying efforts, we were able to get eight bills killed before they could be passed by their respective committees.

But, perhaps the biggest victory IAA witnessed this year was in the area of property taxes. Gov. Mitch Daniels has signed HB 1001 into law.

While the fallout from the session is still cloudy, we are optimistic that taxes will go down in the coming years for owners of apartments in this state.

Unlike the 2002 changes, apartment owners were at the bargaining table and legislators worked to make sure that our industry would not have to make up any shortfalls because of caps to home-
stead properties.

IAA has worked for several

years now to get rental housing included in the "Circuit Breaker" language so there would be a cap on the amount our property taxes can increase in the coming years. Our victory came in the form of a 2.5% cap for 2009 and a 2% cap for 2010 and beyond on property tax bills for rental housing.

Throughout the session, Gov. Mitch Daniels insisted on immediate and long-lasting relief for all property owners and was always quick to point out the need for property tax relief for landlords.

Lawmakers will be pushed by the governor in 2009 to implement the second half of the overall deal. He wants the next Legislature to pass the constitutional caps to render the relief permanent and remove the vulnerability of statutory caps to legal challenges. The 2008 General Assembly passed SJR 1, which is the constitutional amendment, that would make property tax caps permanent.

IAA worked long hours during
(Continued on page 2)

Portions of Lead-based Paint Bill heads to Study Committee; Bill will Return in 2009

IAA lobbied hard on this bill during the session, which resulted in a major victory for the industry, at least through the 2008 session.

Lynne Sullivan, along with several IAA members, testified throughout the process to raise concerns.

The House-Senate conference committee assigned to hear SB143 eventually removed all language

dealing with lead in rental housing and assigned that language to a Summer Study Committee to hammer out differences.

A November 1, 2008, deadline has been set for the committee to provide a new bill for the 2009 session that will address lead-based paint problems in pre-1978 housing.

The bill called for local health departments to determine need for reme-

diation and to approve the removal plans. Our concern was the lack of consistency among the different agencies and the definition of remediation.

Also, once remediation of the occurred, property owners are required to have an annual clearance examination. There was no specific language on what would be in the

(Continued on page 2)

2008 IAA Legislative Committee

Co-Chairmen:

John Sweeney, Barrett & Stokely Inc.
George Tikijian, Tikijian Associates

Members:

Brad Applegate, Dominion Realty Inc.
Jay Beatty, Landman & Beatty
Steve Bodi, Renaissance Rentals LLC
Bob Carter, Carter & DeBone
Jerry Collins, Flaherty & Collins

Properties

Don DeBone, Carter & DeBone
John Ehrhardt, Buckingham

Management LLC

Randy Escue, Dominion Realty Inc.
Dennis Funkhouser, J C Hart Company
Mike Gorman, Edward Rose
Companies

Maureen Hoagland, Pedcor
Mgmt. Corp.

Scott Jeske, Justus Rental
Properties Inc.

Cindy Koehler, SunAmerica Affordable
Housing Partners Inc.

Jim Lyons, Gene Glick Management
Company

Victor Muller, Kirkpatrick
Management Co. Inc.

Jordanna Paciorek, Edward Rose
Companies

Chuck Pechette, Mark III Mgmt. Corp.
Gary Ritz, Paragus Property Mgmt. Inc.

James Schrock, Mike Herald Mgmt.
Tom Spencer, Meridian Mgmt. Corp.

Chuck Townsend, Sheehan Property
Mgmt. Inc.

Adam Van Rooy, Van Rooy Properties
Travis Vencel, Vencel Property

Management LLC

IAA Lobbyist:

Lynne Sullivan, Executive Director

Rental Housing will share in Property Tax Relief

(Continued from page 1)

this session to lobby state legislators on property tax reform. The organization's desire was to get the caps placed in the Indiana Constitution. The fear is that if the caps were not made permanent, future General Assemblies could change them.

So, when will the Rental Housing Industry see the relief? That depends on the county where the property sits. Relief will vary by county — and community — based on current levies, tax rates, and other factors. But, beginning with your 2009 tax bill, you should see some relief because your net taxes will be capped at 2.5% of your assessed valuation.

Here are some highlights of the bill:

Circuit Breakers: Circuit breaker protection for all taxpayer classes – homeowners, rentals, apartments, agricultural, business real and person. Phase in to 1% (1.5% in 2009) for homesteads; 2% (2.5% in 2009) for other residential, which includes rental housing; 3% (3.5% in 2009) for other real and personal property.; places debt approved by referendum outside circuit breaker caps; provides that property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit.

Elimination of Levies and State Assumption of Local Costs: State assumes full cost for remaining School General Fund; state assumes full cost for Child Welfare Levies; eliminates all State Property Tax Levies (State Fair, DNR Forestry)

State Taxes and Revenue: Provides for a one-cent sales tax increase effective April 1, 2008; increase Renter's Deduction from \$2,500 to \$3,000

Local Option Income Taxes (LOIT): Retains the LOIT Options from HEA 1478-2007. Counties can increase LOIT: to pay for budget increases (instead of increasing levies), to provide dollar for dollar property tax relief or to pay Public Service costs. (Must adopt at least a .25% rate for budget increases or dollar for dollar relief to enact .25% rate for Public Safety; counties have to make annual decisions whether to increase LOIT or increase levies; counties can agree to pool LOIT for Public Safety to pursue a single project.

Referendums and Petition Remonstrance on Capital Projects: Elementary School Construction (Academic facilities) – referendum for projects with a cost greater than \$10 million, petition remonstrance for projects with a cost less than \$10 million; high School Construction (Academic facilities) – referendum for projects with a cost greater than \$20 million, petition remonstrance for projects with a cost less than \$20 million; referendum for other controlled projects (projects backed by property taxes) with estimated cost greater than \$12 million or 1% of Assessed Value, Petition Remonstrance for projects less than \$12 million or 1%

Reforms TIF Districts and Local Debt: Prohibits a local issuer from issuing refunding bonds after June 30, 2008, that have a maximum maturity longer than the maturity of the bonds being refunded; prohibits the use of savings from a refunding for any purpose other than funding a reserve, reducing levies or reducing outstanding debt; provides that TIF districts cannot be created for a period exceeding 25 years (existing maximum is 30 years).

For a full summary of the property tax relief legislation log onto our Web site — www.iaaonline.net — to see a full summary of the property tax relief bill.

Sub-committee Looked at Landlord, Day-Care Concerns

(Continued from page 1)

clearance exam.

All Angles Discussed

Throughout the session, legislators covered a broad range of stakeholders in the bill including rental housing, day-care centers, and day-care ministries. A subcommittee of the

House Public Health Committee was formed and stakeholders had a chance to testify to address their concerns. IAA expressed concerns about the onerous language that would have had a huge impact on the rental housing industry in the state. Day-care providers and church ministries

also testified about the negative impact this would have on their ability to do business in Indiana.

Along with rental housing language, church ministries were removed from the final version of the bill that was ultimately signed by Gov. Daniels.

IAA was pleased

that through the efforts of Rep. Phyllis Pond, R-New Haven, and Dave Wolkins, R-Elkhart, rental housing was removed from the bill.

IAA will work with legislators over the coming months to see that the 2009 version will address all of our concerns.

Landlords, Renters Responsible for Smoke Detectors

Indiana Apartment Association worked with Sen. Robert Jackman, R-Milroy, on SB 26, which addressed smoke detectors and responsibilities in rental housing units.

This legislation, which was signed into law on March 3 by Gov. Daniels, makes it a Class B infraction if a landlord fails to: (1) properly install a smoke detector at the time a tenant moves in; or (2) repair an inop-

erative hard wired smoke detector within seven days of receiving notice of the need for repair.

This law also increases the penalty to a Class A infraction for a subsequent offense and it provides that a landlord and a tenant may not waive the requirement that a smoke detector be installed in each rental unit.

Also, it states that the tenant is responsible for replacing batteries as

needed in a battery operated smoke detector and to provide written notice of any malfunctions of a hard-wired smoke detector to the landlord.

It also permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides there. IAA worked hard on this bill and oversaw amendments that assured that landlord rights would be protected under the new law.

Submetering bill should Eliminate need for IURC Regulations

Legislators agreed in SB 226 that landlords are not considered public utility if they meet certain requirements.

If a landlord distributes water or sewage disposal service from a public or municipally owned utility to one or more dwelling units, the landlord is not a public utility if: (1) the landlord bills tenants separately from rent for the services distributed; (2) the total charge for the services is not more than what the landlord

paid the utility for the same services, less the landlord's own use; and (3) the landlord provides the tenant with a written disclosure that meets specified requirements.

The new law provides that a complaint may be filed with the utility regulatory commission (IURC) alleging that a landlord is acting as a public utility. The law requires the IURC to: (1) consider the complaint; and (2) if the IURC considers it to be necessary, enter

an order requiring a billing adjustment. This means a landlord may charge a reasonable initial set-up fee, an administrative fee that may not exceed \$4 per month, a reasonable fee for the return for insufficient funds of an instrument in payment of charges.

IAA will seek changes next year to address the issues in this bill that were not corrected because of the last-minute push to get this bill passed. We will look to add late-fee that were

omitted in the final drafting of the bill.

On March 26 the IURC dismissed its investigation due to the passage of SB226. This important piece of legislation was introduced and lobbied for because the intent of would be to eliminate the need for IURC to continue its investigation of submetering practices in the rental industry and eliminate the potential that the IURC would take over regulation of the entire process

Illegal Alien bill Lacks Leadership Support; dies in Committee

SB 335, the illegal alien bill, did not survive the Indiana General Assembly. Caught in a year when the focus was mostly on property tax reform, and not being able to muster strong support, Sen. Mike Delph, R-Carmel, introduced the bill that would prohibit employers from "knowingly" hiring illegal aliens.

IAA could not support this bill during the session because it could have adverse effects on employees who would have no involvement in the illegal hiring.

Under Sen. Delph's bill, if an employer is found to have violated the law, then there is a cumulative sanction levied against the employer. For the first offense, there is a warning. For the second offense within a 10-year period, there is a 10-day suspension of the business license. For the third offense within the 10-year period, the employer would lose its license to do business in the state.

Both the House and Senate passed versions of the bill, but House

Speaker Pat Bauer, D-South Bend, did not assign members to the conference committee until two days before the end of the session. No compromise could be worked out and the measure died.

IAA stood against the bill because hundreds of people could lose their jobs because of the wrongdoing of a few. We disagree with the shotgun approach and that employees who hire illegal aliens should be terminated, rather than punishing the entire company.



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Legislative Report**

Governor Daniels Signs Landlord-Tenant Statute for Option to Purchase

HB1061, which was signed by Gov. Daniels provides that the residential landlord-tenant statutes apply to a rental agreement that gives the tenant an option to purchase and that is entered into after June 30, 2008.

Rep. John Day, D-Indianapolis, introduced this bill, which was amended in the

House to include language that eliminates the lien on property for delinquent sewer and water charges incurred by a tenant who is not the owner of the property.

This bill clarifies and sets out some necessary language when it comes to the purchase of property from a landlord to his or her tenant.

Important Dates to Remember

April 7, 2008: Voter Registration Closes for the 2008 Election

May 6, 2008: Primary Election Day

May 20, 2008: Voter Registration Opens for the 2008 General Election

October 6, 2008: Voter Registration Closes for the 2008 General Election

November 4, 2008: General Election Day

Mail-in voter registration applications must be postmarked on or before the above registration deadlines