

## **VIRGINIA GENERAL ASSEMBLY APPROACHES CROSS-OVER DEADLINE**

### **“HBAV Legislative Agenda Advances”**

The third full week of the 2009 session of the Virginia General Assembly ends today. It was a very hectic week with most standing committees of the 100-member House of Delegates and 40-member State Senate conducting their final meetings before “Crossover”.

CROSSOVER is the date or deadline that is established by both houses of the state legislature that requires legislative bills to be advanced from their house of origin to the other body. In other words, House bills have to be advanced to the State Senate, and Senate bills have to be advanced to the House of Delegates. Measures that fail to advance from their house of origin by the CROSSOVER, will be declared “DEAD” for the 2009 session of the state legislature.

CROSSOVER is a HUGE date for lobbying organizations, such as HBAV and members of the Virginia General Assembly. It provides certainty (not absolute certainty), that efforts to kill or set-aside anti-industry legislation has been achieved for this session. It also significantly lightens the stress of the remaining days of the session, as most legislators and interest groups focus more on positive legislation rather than negative legislation.

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On the political side, one major “SURPRISE” developed this week. The Republican Speaker of the House and the Democratic Governor announced their support for legislation that would prohibit smoking in public restaurants. That issue was a campaign goal and has been a high-priority of Governor Kaine, since elected in 2005. That legislation has been blocked by the Republican majority House of Delegates in the past. As noted in the first 2009 HBAV Legislative Bulletin, 2009 is an election year and politics do make for strange bedfellows.

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The 4-piece HBAV Legislative Agenda made great progress through the legislative process this week. One Bill (House Bill 2029, by Danny Marshall) advanced through the House of Delegates on a 91-7 vote. Two others (House Bill 1788, by Bob Hull and House Bill 2077, by Glenn Oder) were approved by the House Counties, Cities and Towns Committee and will be considered by the full House on Monday and Tuesday of next week. The 4<sup>th</sup>, a Senate Bill, (Senate Bill 1335, by Senator Stuart) was approved by the 40-member State Senate today.

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The scheduled adjournment day for the 2009 Session of the Virginia General Assembly is Saturday, February 28<sup>th</sup>. However, the leadership of the House Appropriations Committee and Senate Finance Committee has recommended the state legislature recess just two days before the scheduled adjournment to gather additional economic data and benefits to Virginia from the pending federal stimulus package, before adopting an FY 2010 state budget.

## **The 2009 HBAV LEGISLATIVE AGENDA**

**House Bill 2077, by Delegate Glenn Oder of Newport News** is a plan validity extension measure. It would extend the validity of any subdivision plat, plot, preliminary plan, final plan, conditional use permit, special use permit, special exception, construction plan, public improvement plan, site plan, or any select proffer that is valid and outstanding as of January 1, 2009, for a period of five years from its current expiration date. **House Bill 2077 was approved by the House CC&T Committee today.**

**House Bill 2029, by Delegate Danny Marshall** would “temporarily” (five years) reduce the 25% bond administrative fee to 10% above the estimated construction cost. This legislation will reduce a landowner’s cost and increase his borrowing capacity. **House Bill 2029 was approved by House of Delegates this week on a 91 to 7 vote.** It will likely be assigned to the Senate Local Government Committee early next week.

**House Bills 1788, by Delegate Hull & House Bill 2294, by Delegate Merricks** would prohibit a locality from not allowing the use of “alternative” or “non-conventional” on-site wastewater treatment systems that have been approved for use by the Department of Health. The legislation would also prohibit localities from imposing maintenance requirements on such systems more stringent than required by the Department of Health, or in their absence, manufacturer’s recommendations. **House Bill 1788 was approved by the House CC&T Committee on a 19 to 2 vote today.**

**Senate Bill 1335, by Senator Richard Stuart of Stafford** would allow, not require, a local government to waive the requirement for a public hearing in their consideration of an amendment to an existing proffer. Such a waiver could significantly decrease the time required to approve such an amendment.

Many proffers that have been volunteered to local governments in conjunction with a rezoning or other land use decisions have dates or triggers that either require a payment to be made or some other action to take place. Most of those dates or triggers in many proffers were volunteered at a time in the Virginia economy when there was high demand for new housing and that demand had been forecast to continue far into the future.

**Senate Bill 1335 was approved by the State Senate today. It will likely be assigned to the House CC&T Committee early next week.**

## **OTHER DANGERS KILLED !!!**

Many threats to the housing climate were killed this week for this session of the state legislature. Listed below is just a partial list of House Bills and Senate Bills that could have negatively impact the home building business this year.

**House Bill 1582, by Delegate Algie Howell. Employees of home access businesses; penalty.** Requires the owner or operator of a commercial establishment that provides a service that requires the establishment's employees to regularly enter the interior area of the residence of its customers to conduct a criminal background check of employees whose regular duties can reasonably be expected to require entering the interior area of the residences of establishment's customers. Effective September 1, 2009, employers are required to complete a criminal records check on prospective employees, but an employer is not prohibited from hiring an employee on the basis of the results of the criminal records check. Employers are required to keep copies of the fingerprints and records check for such employees. Employers shall provide identification badges to employees and require the employees to wear the badge when they are expected to enter customers' homes. Violations constitute a Class 3 misdemeanor. **Killed**

**House Bill 1640, by Delegate Bob Marshall. Form of deeds and deeds of trust.** Provides that when a corporation, partnership, limited partnership, business trust, or limited liability company is the grantee of a deed or the grantor of a deed of trust, the deed or deed of trust shall contain the names of the registered agents and the directors, officers, partners, etc., of these various business entities. **Killed**

**House Bill 2095, by Delegate Orrock. Board for Contractors; definition of tradesman.** Adds building framers and masonry contractors to the definition of tradesman, thereby

requiring these individuals to be licensed by the Board of Contractors. **Killed**

**House Bill 2418, by Delegate Bouchard. Optional provisions of a subdivision ordinance; solar energy.** Strikes language requiring that provisions for establishing and maintaining access to solar energy be applicable to a new subdivision only when so requested by the subdivider. **Withdrawn**

**House Bill 2664, by Delegate Valentine. U.S. Route 29; access management.** Requires the Commonwealth Transportation Commissioner to take all appropriate measures to develop local corridor access management plans for U.S. Route 29 between Gainesville and North Carolina. **Killed**

**House Bill 2563, by Delegate Cole. Street construction.** Allows localities to withhold acceptance of plat approvals if the applicant has other projects in the locality with streets not completed or on track for completion as required by the approved plans for that project before said developer or subdivider will receive approval of a new subdivision or development plan. Further allows localities to withhold partial and final complete release of any performance guarantee if streets in the plan have not been accepted by and taken over for operation and maintenance by the authority responsible for maintaining and operating such public facility. **Killed**

## **ON THE POSITIVE SIDE.....OTHER MEASURES ADVANCED**

**House Bill 1698, by Delegate Lohr. Scrap metal processors.** Prohibits the sale or purchase of any scrap metal that the seller or scrap metal processor knows is copper, aluminum, brass, lead, or other nonferrous metal of any kind, including catalytic converters or any materials derived from a catalytic converter, steel railroad track and track material, metal beverage containers with a capacity of more than two liters that are marketed as returnable, or other specific categories of scrap metal, unless the person attempting to sell the scrap metal provides documentation establishing or acknowledging that the seller is the owner of the scrap metal or is an employee, agent, or other person authorized to sell the scrap metal on behalf of the owner. The measure authorizes law-enforcement officers during the regular business hours of a scrap metal processor to inspect, without a warrant or subpoena, any scrap metal in the possession of a scrap metal processor, any records required to be maintained by a scrap metal processor, or both. Each seller of scrap metal is required to provide his driver's license number to the scrap metal processor in connection with each sale of nonferrous scrap, metal articles, and proprietary articles. Sales where the seller is unable or refuses to provide the required identification and information are prohibited. Scrap metal processors are required to keep a record of the total price paid for items purchased and the price paid per unit of measurement for the

items. The penalty for any violation of the chapter is increased to a Class 1 misdemeanor. Currently, negligent violations are subject to a civil penalty not to exceed \$7,500 while knowing violations are a Class 1 misdemeanor. **ADVANCED BY HOUSE COURTS COMMITTEE**

**HB 2326, by Delegate Athey. Boards of zoning appeals; variances.** Changes the standard by which a variance can be granted by eliminating the requirement for a showing of a hardship approaching confiscation and instead requiring a clearly demonstrable hardship. **ADVANCED BY CC&T**

**House Bill 1856, by Delegate Shannon. Virginia Residential Property Disclosure Act; disclosure of stormwater detention facilities.** Provides that an owner of real property makes no representations with respect to the presence of any stormwater detention facilities located on the property and that purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract. **PASSED HOUSE OF DELEGATES**

**House Bill 1948, by Delegate Peace. Income tax; livable home tax credit.** Increases the individual tax credit limit from \$500 to \$2,000 and the 25 percent amount for retrofitting to 50 percent for taxable years beginning on or after January 1, 2010. **PASSED HOUSE OF DELEGATES**

**Senate Bill 845, by Senator Puller. Livable Home Tax Credit; increase limit.** Increases the Livable Home Tax Credit limit from \$500 to \$1,000. **PASSED SENATE**

**Senate Bill 906, by Senator Stosch. Income tax; homebuyer tax credit.** Provides an income tax credit equal to \$2,500 for single taxpayers and \$5,000 for married taxpayers filing jointly for taxable years beginning on or after January 1, 2009, but before January 1, 2011, who purchase a principal residence during that period. Any tax credit claimed would be recaptured if the taxpayer disposes of the principal residence within two years after purchase. Funding contingent upon resources from federal stimulus legislation pending before the U.S. Congress. **PASSED SENATE COMMITTEE ON FINANCE**

**Senate Bill 1430, by Senator Stosch. Grants to purchasers of newly constructed residential homes.** Authorizes the issuance of \$50 million in bonds to fund grants to individuals who purchase a principal residence in the Commonwealth that was first issued a certificate of occupancy on or after January 1, 2007, but before July 1, 2009. Eligible individuals would be individuals who had no present ownership in a principal residence within the last three years. The Virginia Housing Development Authority, in consultation

with the Virginia Economic Development Partnership, would develop guidelines for purposes of determining eligible homebuyers and the amount of grant awards. Contingent upon funding from federal stimulus legislation pending before U.S. Congress. **PASSED SENATE COMMITTEE ON FINANCE.**

**Senate Bill 1524, by Senator Watkins. Permitted provisions in zoning ordinances.** Broadens the zoning administrator's authority to determine vested rights in certain circumstances. **PASSED SENATE**

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**For complete Summaries of the 2009 HBAV Legislative Agenda, visit [www.hbav.com](http://www.hbav.com) and click on Legislative News.**