

STATE BUDGET AGREEMENT BRINGS END TO 2010 LEGISLATIVE SESSION

“State Legislature Helpful to Housing”

The 2010 session of the State Legislature adjourned last Saturday evening, one day after the scheduled adjournment. As expected from day one of the 2010 legislative session, the State Budget was the final bill to be considered by both houses. In the words of one veteran State Senator, “While I have been through some challenging budget negotiations before, none has compared to the difficulty and intensity of this year’s budget conference.” The budgets advanced by the House and the Senate demonstrated vastly different approaches to closing a shortfall that exceeded \$4 billion.

The outcome of those negotiations was a respected compromise that seemed to encompass the best of the House proposals and the best of the Senate proposals. The cuts are significant, but given economic realities, the only approach for the majorities of both houses to take for this session of the State Legislature. The Bi-Annual State Budget will be for the periods ending June 30, 2011 and June 30, 2012.

Some of the State Budget highlights would be that K-12 cuts were held to \$253 million. At one time in this legislative session, they were forecast to approach \$700 million. Fee increases were limited to \$95 million, down from a proposed \$330 million. Most HBAV members will be impacted by a \$10 increase in the state recordation tax collected on land transfers. For the most part higher education was spared in this round of budget cuts. Higher-Ed was the target of budget cuts in this fiscal year.

In an effort to help re-start the states economy, over \$50 million was provided to expand the state’s economic development program and to provide businesses incentives for creating new jobs in the private sector.

COURT FEES REDUCED SIGNIFICANTLY IN BUDGET

The massive court fee increases had been imbedded in the State Budget by the State Senate. and the House of Delegates were refusing to accept the same.

HBAV is part of a coalition of business groups urging state lawmakers to reject the massive increase in court fees. At one point the proposed increase would have raised general district court fees from \$27 to \$75 and raise circuit court fees from \$60 to between \$110 and \$500 for circuit court cases involving less than \$1 million, and from \$160 to \$1,000 in cases seeking \$1 million or more. If passed, it would cost more to file a civil lawsuit in Virginia than any other state. The fee increases passed the State Senate in the form of SB 329, by Senator Richard Stuart.

The measure would significantly increase the cost of doing business for the HBAV commercial property and multi-family owners seeking to exercise their legal rights with delinquent tenants in District Courts.

In the final Budget Agreement, District Court fees were raised from \$27 to \$30. Circuit Court fees were raised from \$60 to \$100 if suing for under \$50,000; from \$110 to \$200 if suing for under \$50,000 to \$100,000; increased from \$160 to \$250 if suing for \$100,000 to \$500,000; and increased to \$300 if suing for over \$500,000.

HBAV greatly appreciates the work of the House Conferees in their insistence that the Court fees be reduced in Virginia Courts.

STATE LEGISLATORS HELPFUL TO HOUSING INDUSTRY IN 2010 LEGISLATIVE SESSION

“Governor McDonnell Signs Stormwater Regulation Delay Bill”

State Legislators from all across Virginia were helpful to the housing industry in 2010, as the business attempts to recover from an historic downturn in production. HBAV members should express thanks to the members of the State Legislature for their support of our struggling business. All four bills on the 2010 HBAV Legislative Agenda have passed both houses of the Assembly, and three are waiting action by Governor Bob McDonnell. The fourth has already been signed into law by the governor. All four bills should be helpful to the housing industry. Each legislative bill has a July 1, 2010 effective date.

It is also important to note, that no anti-housing legislation passed the Virginia General Assembly this year. In all, about 850 pieces of legislation were approved by the General Assembly this year.

This marks the second year in a row that the state legislature has taken significant action to support the Virginia housing industry. In 2009, state legislation was passed to extend the validity any proffer, subdivision plat, plot, preliminary plan, final plan, conditional use permit, special use permit, special exception, construction plan, public improvement plan, site plan, or any other land use document or action that is valid and outstanding as of January 1, 2009, for a period of five years from its current expiration date, and any deadline or scheduled event specified in such document or action is extended for a period of five years, regardless of whether such expiration or schedule exists by operation of statute, proffer, permit, local ordinance, or local custom.

Below is a brief summary of each legislative bill in the 2010 HBAV agenda.

VESTED RIGHTS - House Bill 1250, by Delegate Barry Knight of Virginia Beach has been approved by the House of Delegates and State Senate despite a despicable editorial against the measure, which was published in the Roanoke Times. The newspaper misrepresented the intent and purpose of the legislation.

House Bill 1250 would add to the list of Significant Affirmative Governmental Acts (now seven in total), the issuance of any written order, requirement, decision or determination made by the zoning administrator or other administrative officer regarding the permissibility of a specific use or density of the landowner's property, after the appeals period, to the Act.

In many cases, prior to beginning improvements or construction on property in Virginia, lenders require and property owners obtain, a "Determination" from a Zoning Administrator to insure the intended use or density intended for the property, is allowed by the underlying zoning classification. In most localities, such a "Determination" is a formal process. This measure will simply protect the property rights and add a layer of certainty for landowners who have acquired a Zoning Determination from a local government.

STORMWATER REGULATION SUSPENSION - SIGNED INTO LAW BY GOVERNOR MCDONNELL- House Bill 1220, by Delegate Tim Hugo of Fairfax County and Senate Bill 395 by Senator Frank Wagner. The companion bills would suspend the controversial Stormwater regulation of the Department of Conservation and Recreation (DCR) until 280 days after the completion of the Virginia Total Maximum Daily Loads (TMDL) Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL is approved by the United States Environmental Protection Agency, but no later than December 1, 2011.

HBAV announced earlier this Session that an HBAV-led coalition of business organizations and local governments had reached a tentative Agreement with the Chesapeake Bay Foundation, the James River Association and the Nature Conservancy on a measure to "Temporarily" suspend the Kaine Administration and DCR proposed Stormwater regulation which would have significantly increased the cost of land development in every part of Virginia, and will do very little to improve the water quality of the Chesapeake Bay.

The EPA-TMDL is forecast to be completed by December, 2010. That will give Virginia's Department of Conservation and Recreation nearly 12 months to adopt a new Stormwater regulation that will meet the allocations to be set out by the EPA-TMDL.

The passage of the legislation in both houses means the measures now goes to Governor McDonnell for his consideration. Earlier this year, the new McDonnell Administration expressed support for the suspension of the Kaine-backed DCR regulation. HBAV will urge Governor McDonnell to sign the legislation into law. HB 1220 and SB 395 were the highest Legislative Priority of HBAV for the 2010 Session of the State legislature.

PROFFER PAYMENT DELAY – House Bill 374, by Delegate John Cosgrove and Senate Bill 632, by Senator Mark Obenshain would "temporarily" delay collection or acceptance of a per lot cash proffer by a locality, until after final inspection and before the residential property has been issued a certificate of occupancy by said locality.

THE MEASURES WERE CRAFTED AND DESIGNED TO IMPACT EXISTING PER LOT CASH PROFFERS, OR PROFFERS AGREED TO PRIOR TO THE JULY 1, 2010 EFFECTIVE DATE OF THE ACT. EVIDENCE OF THAT CAN BE FOUND BY THE UNSUCCESSFUL EFFORTS OF FAIRFAX COUNTY TO HAVE THE BILL AMENDED ON THE HOUSE FLOOR TO "NOT"

MAKE IT APPLY TO PER LOT CASH PROFFERS PRIOR TO JULY 1, 2010 THAT REQUIRED PAYMENT EARLIER, SUCH AS AT THE TIME OF THE ISSUANCE OF A BUILDING PERMIT. THAT FLOOR AMENDMENT FAILED ON A 26 TO 73 VOTE!

Senate Bill 632 and House Bill 374 are designed to temporarily eliminate a major impediment to the recovery of the new housing industry in many markets. Such "UPFRONT" required cash payments to local governments, in the current building and banking environment, stifle job production by the housing industry. HBAV believes it is now appropriate to "temporarily" delay this costly upfront payment of cash proffers or impediment to the production of new housing in many areas of Virginia.

WATER AND SEWER DELINQUENT PAYMENT – House Bill 407, by Delegate Glenn Oder has passed the House of Delegates. As a component of the annual update of the Virginia Landlord Tenant Act, the measure provides that if the landlord has not received the final water, sewer or other utility bill for the dwelling unit within the 45-day period, the landlord may provide written notice to the tenant that a portion of the security deposit is being held pending settlement of the water, sewer or other utility account, after which settlement, the landlord shall refund any remaining balance within 10 days. The tenant may provide the landlord written confirmation of the final settlement of such charges within the 45 day period, in which case the landlord shall refund the security deposit unless other deductions shall apply.

Many localities or their Water and/or Sewer Authorities have the ability to place liens on property (owners) for delinquent water and sewer charges. That same authority applies to rental units. Meaning, many property owners are being required to pay the delinquent water and sewer bills for tenants that vacate their rental property. Often such bills are received long after an apartment or rental home is vacated and the delinquent charges can be substantial (\$\$).

DELEGATE LOHR NAMED COMMISSIONER OF DEPARTMENT OF AGRICULTURE

Harrisonburg Delegate Matt Lohr has been named Commissioner of the Department of Agriculture and Consumer Services by Governor McDonnell. He represented the heavily Republican area for three terms before being re-elected to the House of Delegates last year. Lohr was a member of the House Counties, Cities and Towns Committee and was very supportive of the housing industry.

After graduating from Virginia Tech with a degree in agriculture education, he returned to his family farming operation in Rockingham County. Matt is a past state president of FFA and in 1991 served as national FFA vice president. He is a very popular member of the House of Delegates.

As Commissioner of Agriculture, Lohr will be responsible for over 60 laws and more than 70 regulations relating to consumer protection and the promotion of agriculture. All HBAV members should wish Matt Lohr success in his new challenge. He will begin his service to the Department of Agriculture on May 1.

As of this date, Governor McDonnell has not set a date for a Special Election to fill his seat in the House of Delegates.

LIEUTENANT GOVERNOR BILL BOLLING TO ADDRESS HBAV SPRING BOARD MEETING

The Guest Speaker for the HBAV Board of Directors Meeting, scheduled for Thursday, March 25th in Richmond, will be Lieutenant Governor of Virginia, Bill Bolling. He was first elected to the office of Lieutenant Governor of Virginia in 2005. On November 3rd, 2009 the Lieutenant Governor was re-elected to a second four-year term. Prior to his election as Lieutenant Governor, Bill Bolling served 10 years in the State Senate. Prior to his service in the Senate, he served as Chairman of the Hanover County Board of Supervisors.

As you may remember, upon his swearing-in, Governor McDonnell appointed the Lieutenant Governor as the state's Chief Job Creation Officer and made him a member of his cabinet. He is to be on the front lines of the state's effort to create jobs and economic opportunity. Many economists and supporters of the housing industry believe job growth will be the catalyst to an improving new housing market.

Following the remarks by Lieutenant Governor Bolling, the Board will receive the reports of the Treasurer, Independent Auditor, Local Presidents/Membership Improvement Task Force, Legislative Committee (including the results of the 2010 Session of the Virginia General Assembly), the Associates Committee and the State Representative's report. We will also get an update on the HBAV Support for the Haiti Orphanage by HBAV Past President Bob Flynn and we will also kickoff our 2010 HBAV Build-PAC campaign at this meeting of the HBAV Board of Directors. There will also be an important local update of each association's plans for the DIRECTDrive Membership Campaign.

All HBAV Board Members, including Local Presidents are strongly encouraged to attend the HBAV Spring Board Meeting.