

HBAV LEGISLATIVE BULLETIN

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CASH PROFFER PAYMENT DELAY PASSES COMMITTEE - HOUSE OF DELEGATES

“State Senate to Consider next”

House Bill 374, by Delegate John Cosgrove of Chesapeake, which would “temporarily” delay collection or acceptance of a cash proffer by a locality until after final inspection and before the residential property has been issued a certificate of occupancy by said locality, advanced in the state legislative process this week. The measure would apply statewide and would be effective until July 1, 2014.

On Tuesday afternoon, the 100-member Virginia House of Delegates advanced the bill to its final House consideration on a Voice Vote. One (1) Amendment was offered on the House Floor by Delegate Bob Marshall, Prince William County, that would have gutted the measure by making the cash proffer delay provision only apply to cash proffers accepted after July 1, 2010. The Bob Marshall Amendment failed on a 26 to 73 vote.

On Wednesday afternoon, **House Bill 374** was placed on the 3rd Reading Calendar of the House of Delegates and passed by a vote of 72 to 26. Speaking in support of **HB 374** were Bill Patron John Cosgrove and Delegates Bobby Orrock and Ward Armstrong. Speaking in opposition to the measure were Delegates Bob Marshall, Kaye Kory and Jim Scott. Delegates Kory and Scott are from Fairfax County, which vigorously opposed the bill. Following is the final House vote on **HB 374**.

Voting YEA and supporting the members of HBAV were Delegates Abbitt, Albo, Alexander, Armstrong, Athey, BaCote, Bell, Richard P., Bell, Robert B., Byron, Carrico, Cleaveland, Carr, Cline, Cole, Comstock, Cosgrove, Cox, J.A., Cox, M.K., Dance, Edmunds, Garrett, Gear, Gilbert, Greason, Howell, A.T., Hugo, Iaquinto, Ingram, James, Janis, Joannou, Johnson, Jones, Kilgore, Knight, Landes, Lewis, Lingamfelter, Lohr, Loupassi, Marshall, D.W., Massie, McClellan, McQuinn, Merricks, Miller, J.H., Miller, P.J., Morefield, Morrissey, Nixon, Nutter, O'Bannon, Oder, Orrock, Peace, Pogge, Poindexter, Pollard, Purkey, Putney, Rust, Sherwood, Shuler, Spruill, Stolle, Tata, Tyler, Villanueva, Ward, Ware, O., Wright, Mr. Speaker--72.

Voting NAY and opposing the members of HBAV were Delegates Abbott, Anderson, Barlow, Brink, Bulova, Crockett-Stark, Ebbin, Englin, Griffith, Herring, Hope, Keam, Kory, LeMunyon, Marshall, R.G., May, Morgan, Plum, Scott, E.T., Scott, J.M., Sickles, Surovell, Torian, Toscano, Ware, R.L., Watts--26.

House Bill 374 now goes to the Senate Committee on Local Government for consideration.

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House Bill 374 is 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.

Senator Mark Obenshain of Harrisonburg has introduced a Senate companion bill to HB 374. It is Senate Bill 632. It will be considered by the Senate Committee on Local Government this coming Tuesday afternoon.

TENTATIVE AGREEMENT REACHED ON TEMPORARY SUSPENSION OF STORMWATER REGULATION

An HBAV led coalition of business organizations and local governments has 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.

HBAV has consistently asserted that the new Stormwater regulation was attempted to be rushed to the finish line by the Kaine Administration, with their full knowledge that the current Stormwater Management Regulation has brought Virginia very close to its current Phosphorous Goal, and the FACT, that the EPA is in the process of revising the current phosphorous loading limits for Virginia.

The timing of the Kaine Administration’s Stormwater Regulations adoption and implementation would have created significant uncertainty for the private and public sector’s efforts to improve land and create jobs over the next 24 months and beyond.

Under the provisions of the Agreement, the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria, shall not become effective 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.

Legislation to be used to enact the Agreement are **House Bill 1220, by Delegate Tim Hugo of Fairfax County and Senate Bill 395, by Senator Frank Wagner of Virginia Beach.** The legislation would allow time for the DCR regulation to be changed to be consistent with the

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completion of the Virginia Total Maximum Daily Loads (TMDL) Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL approved by the United States Environmental Protection Agency. 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 Substitute for Senate Bill 395, the Agreement, has been assigned to the Senate Agriculture, Conservation and Natural Resources Committee and it is likely to be considered this coming Monday morning. A subcommittee of Senate Ag approved the Agreement bill on Thursday evening of this week.

THIS WEEK THE STATE LEGISLATURE ALSO.....

Killed House Bill 442, by Delegate Hope in the House General Laws Subcommittee on Housing. The measure would have required the Board of Housing and Community Development to adopt regulations establishing standards for new construction of single-family residential buildings to meet minimum standards for accessibility for persons with disabilities, including provision for (i) doorway entrances of at least 32 inches in width; (ii) accessible pathways of at least 36 inches in width throughout the first floor; (iii) at least one accessible no-step main floor entryway; (iv) accessible environmental controls, including electrical outlets at least 18 inches above the floor and light switches at least 44 inches above the floor; and (v) at least one bathroom on the first floor that is capable of supporting the installation of grab bars and other assistive equipment. The bill did provide that such standards may include reasonable exemptions from such requirements as deemed appropriate by the Board.

Set Aside at the Request of the Patron, Senate Bill 290, by Senator Creigh Deeds in the Senate Committee on General Laws. The measure would have required the Board for Housing and Community Development, as part of the USBC to adopt and promulgate a Green Building Code to integrate and optimize on a life-cycle basis the attributes of energy conservation, reduced water demand, healthier indoor-air quality, minimal environmental impact, safety security, durability, accessibility, cost-benefit, productivity, sustainability, functionality, and operational considerations. In promulgating the Green Building Code, the Board shall consider standards and model codes and green building rating standards developed by interested organizations, including but not limited to the Green Building Initiative green building rating standard and the United States Green Building Council Leadership in Energy and Environmental Design green building rating standard. Local governing bodies shall have the option of adopting the Green Building Code.

Killed House Bill 437, by Delegate David Toscano in the House Finance Committee. The measure would have permitted localities to collect roll-back taxes for a period not exceeding 10

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years, including simple interest on such roll back taxes. Under current law the roll-back tax period is five years. Upon rezonings from Agriculture use to a higher use, many localities now require such a tax payment, substantially increasing development cost.

Approved in the State Senate, Senate Bill 298, by Senator John Miller. The measure would prohibit an insurance company from canceling, refusing to renew, or increasing rates on a policy on an owner-occupied dwelling solely because the dwelling was built using defective drywall. Senate Bill 298 now goes to the House of Delegates for consideration.

Approved in the State Senate, Senate Bill 57, by Senator Steve Martin. The measure provides that dealers selling and installing countertops shall be deemed retailers for purposes of the sales and use tax. As a retailer, the dealer would be required to collect the tax from the customer. Under current law, dealers selling and installing countertops are deemed to be the ultimate users and consumers of the countertops and pay the sales and use tax instead of collecting it from customers.

Under current law, dealers selling and installing fences, venetian blinds, window shades, awnings, storm windows and doors, locks and locking devices, floor coverings, cabinets, kitchen equipment, and window or air conditioning units are deemed to be retailers and collect the sales and use tax from customers as opposed to paying it. The bill would provide the same tax treatment to dealers selling and installing countertops.

THIS COMING WEEK, THE STATE LEGISLATURE WILL...

Consider the remaining legislation on the 2010 HBAV Legislative Agenda.

House Bill 1250, by Delegate Barry Knight of Virginia Beach provides that the issuance of any written order, requirement, decision, or determination by the zoning administrator regarding the permissibility of a specific use or density of the landowner's property shall be considered a significant affirmative governmental act for purposes of determining vested rights.

House Bill 1250 has been assigned to the House Counties Cities and Towns Committee for consideration.

Senate Bill 640, by Senator Steve Martin of Chesterfield County provides that no locality shall establish any rate policy or guideline regarding the amount and timing of the payment of cash proffers to such locality unless such rate policy or guideline is established by Resolution, following 7 days notice and a public hearing on the same.

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Senate Bill 640 has been assigned to the Senate Committee on Local Government for further consideration.

House Bill 407, by Delegate Glenn Oder of Newport News allows a landlord to withhold a portion of the security deposit until final settlement of water and sewer bills.

House Bill 407 has been assigned to the House General Laws Committee for review.

HBAV LEGISLATIVE COMMITTEE

The HBAV Legislative Committee, chaired by HBA of Richmond past President Bill Garrett, will continue to meet during each week of the 2010 Session of the Virginia General Assembly. The committee sets HBAV policy on matters before each session of the State Legislature. The committee meets by Conference Call on every Friday of each week. As of this writing, the HBAV Legislative Committee has directed action by the HBAV Lobbying Team on 104 Senate Bills, House Bills and Resolutions. The State Legislature meets Monday through Friday of each week for 60 days this year, and does not pause for federal holidays or bad weather.

BUILDERS STORM SPRINKLER MANDATE PUBLIC HEARING IN RICHMOND

Home Builder and Associate Members of HBAV showed up in record number on Monday morning of this week to OBJECT to a proposed change in the Uniform Statewide Building Code (USBC) that would require every new home to be equipped with a Sprinkler System. HBAV greatly appreciates the large turnout of members from throughout Virginia. Over 25 HBAV members spoke against the Sprinkler Mandate that is being considered by the Board for Housing and Community Development.

The Monday morning hearing was the second hearing on the issue by the board. In July, 2009, the board held their first hearing on the issue and later voted to change the mandate to change the Sprinkler Mandate to an Option in Virginia. Representatives of the sprinkler industry (surprise) and the fire protection business (surprise) spoke in favor of the Sprinkler Mandate.

Speaking in OPPOSITION to the mandate for HBAV was 2010 President Mike Newsome of Virginia Beach. He highlighted the many fire safety features already required by the USBC in one and two family dwelling units, and the fact that occupants of the home that are equipped with a working smoke alarm have a 99.45% chance of surviving home fire, according to the National Fire Protection Association. President Newsome also reminded the board that the

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cost of such systems would force many Virginian's to choose less costly, older housing that does not have the benefit of the many fire safety features in new housing.

The Board for Housing and Community Development is expected to make its final decision on the Sprinkler Mandate in May of this year.

IMPORTANT DATES TO REMEMBER

Among the major rules adopted by each General Assembly is a schedule of dates that manages the flow of legislation. Following are the dates of the important deadlines for consideration of legislation during the 2010 Session of the General Assembly:

January 22, 2010	Deadline to Introduce Bills
February 16, 2010	Deadline to Consider Bills in the House of Origin
March 11, 2010	Deadline to Put Bills in Conference
March 13, 2010	Adjournment