



March 23, 2022

Indiana General Assembly Adjourned for 2022

The Indiana General Assembly has concluded all legislative business for the 2022 legislative session, working late into the night and finishing in the early morning of March 9. The Indiana General Assembly adjourned and declared sine die several days earlier than the legislative calendar dictated for the end of session. This timely adjournment marks a significant contrast to last year when we saw the legislature conclude session without declaring sine die, taking an unprecedented 363 days to adjourn for the year.

For the 2022 session, legislators introduced 898 bills between both the Senate and House. Of these, 265 bills, or roughly 30% of the bills introduced, survived the first half of session. Of those 265 bills that survived to the halfway point, 177 bills, roughly 20%, were ultimately passed to be sent to the governor's desk for signature into law. Of the 898 introduced bills, the IMBA started session tracking 220 of them, with only 53 of those bills making it to the governor's desk.

Of the bills the IMBA was tracking throughout session, a handful will directly impact the industry when enacted. SEA 371 bill was directly shepherded throughout the process by the IMBA and was essential to the industry. SEA 371 gave lenders ease of mind with protections regarding the sunset of the LIBOR interest rate, providing a clear replacement base interest rate for contracts that reference LIBOR, as the rate will no longer exist in June of 2023. This bill was effective immediately upon the governor's signature, becoming law on March 10.

On a broader COVID-19 front, the General Assembly enacted parameters regarding vaccine passports and vaccine mandates in the workplace. The General Assembly banned the ability of local governments to require vaccine passports and dictated that if employers mandate vaccinations, they must provide individual exemptions to opt-out for medical or religious reasons, or due to immunity from previous infection with COVID-19. Additionally, with Indiana's large surplus, fiscal leadership set the goal of cutting taxes this legislative session, with the finalized agreement cutting Indiana taxes by \$1 billion.

Each session comes with challenges in the form of bills or legislative ideas that would create significant disruptions to the banking industry, and this year was no different. The IMBA was successful in advocating to prevent several troubling bills from passing. Most notably, the IMBA was central to defeating HB 1224, a bill that would have disallowed state government from investing or contracting with companies that "boycott" energy companies. This bill would have created a new significant risk to financial institutions of being labeled as "boycotting" the fossil fuels industry based on business decisions. The industry also fought back against similar

legislation that applied to the firearms industry through a bill that functioned in a similar manner to the fossil fuels bill, applying the framework to gun dealers and manufacturers (HB 1409). It is expected that both approaches to "forced" finance will return next session.

The IMBA faced a serious debate regarding a new concept of establishing special tax or special assessment districts. These districts would use a super lien to sell bonds and use the proceeds to fund general development, both for infrastructure and broader development. Senate Bill 370 is expected to be brought back next session, and creating a lien priority for these assessments will be central to the debate.

Other troubling issues expected to return in coming years include bills focused on creating new penalties for lenders related to discrimination in lending (HB 1326) and an extension of sales tax to services (HB 1083). The IMBA had significant concerns about each of these bills this session and opposed both bills as they were drafted.

The IMBA extends special thanks to the many legislators and bankers who worked toward satisfactory outcomes on issues of concern to the financial services industry. The effort and engagement put forward by so many will ensure that Indiana continues to be a state in which financial institutions can serve their customers well and positively impact Indiana communities and the broader economy.

Legislation That Passed the 2022 Indiana General Assembly

SEA 62—Sale of Tax Sale Properties to Nonprofits

Sen. Michael Young (R-District 35)

Summary of legislation

The bill permits a county treasurer in a county having a consolidated city to offer for sale a tract or item of real property on the county auditor's tax sale list that is not used as a person's principal place of residence and receiving a homestead standard deduction for the most recent assessment date; that is unsold after two or more public sales; and for which a set-off has not been obtained against the delinquent debt owed on the real property; to an eligible nonprofit entity prior to a regularly scheduled tax sale. It provides that not more than 5% of the real property on the tax sale list may be sold to eligible nonprofit entities. It requires an eligible nonprofit entity to file certain information with the county executive no later than 45 days prior to the tax sale to participate in an early sale. It requires, before Jan. 1, 2023, and before each Jan. 1 thereafter, the county executive to provide an annual report to the legislative council concerning the sale of tax sale properties to eligible nonprofit entities.

What you need to know

The introduced version of the bill was drafted in a manner that could limit the notification a lender receives regarding a property that is in a tax sale. It was also drafted to create a new process that the County Executive would establish. The bill was being advocated for by the Marion County Treasurer and several community development corporations seeking to address blight in the state. The final version of the bill turned this program into a Marion County pilot with a reporting requirement to the Indiana General Assembly on the program's progress.

Latest action

The bill was signed by the governor on March 15.

SEA 67—Small Estates

Sen. Timothy Lanane (D-District 25)

Summary of legislation

The bill increases the value of estates that may be distributed via affidavit from \$50,000 to \$100,000. It increases the threshold for summary procedures for unsupervised estates from \$50,000 to \$100,000. The Probate Code Study Commission prepared the introduced version of this bill.

What you need to know

Unsecured creditors must be aware of any changes to the amount in the small estate affidavit. The process for collection under a small estate is different when no lien or encumbrance is present.

Latest action

The bill was signed by the governor on March 18.

SEA 145—Property Tax Matters

Sen. Brain Buchanan (R-District 7)

Summary of legislation

The bill provides that the true tax value of commercial real property commercial property with a structure, or a portion thereof, that is at least 100,000 square feet in area; is used for retail purposes; and is occupied by a single retailer; shall be determined by application of the cost approach. The application of the cost approach requirement is not applicable if the property was vacated by the original occupant for which the property was constructed; constructed more than five years prior to the assessment date; or substantially and adversely impacted by a change in a roadway or traffic pattern. It provides that estimate of depreciation and obsolescence shall not be based on data derived from the sales comparison or income capitalization approaches. It requires the department of local government finance (department) to establish a standard construction cost per square foot for the purpose of applying the cost approach and the department to update the standard construction cost per square foot annually. It provides that when requesting a review, a taxpayer may present an appraisal based on the cost approach as evidence that the actual construction cost was lower than the department's determined standard construction cost per square foot that was used to assess the property. It provides that the parties to any appeal may enter into a written agreement to stipulate the property's true tax value. It also provides that the fiscal officer of the county may establish a separate account for the tax receipts that are attributable to the property tax assessment that is the subject of review.

What you need to know

This bill addresses the ongoing "big box" or "dark store" property tax assessment issue that has been debated for the last ten years in the General Assembly. SEA 145 allows commercial retail properties larger than 100,000 square feet and occupied by the original owner to have the property assessment as the cost of construction of the building for the first five years of its existence. This assessment will then revert to the real value of the property after the five years. This clarifies the property tax assessment process and will reduce the property tax appeals on these large bog box stores.

Latest action

The bill was signed by the governor on March 10.

SEA 166— Public-Private Agreements

Sen. Kyle Walker (R-District 31)

Summary of legislation

The bill provides that a governmental body may enter into a public-private agreement with respect to a transportation project and that any public-private agreement with respect to a transportation project may use availability payments to finance all or a portion of the project. It provides that a governmental body may also enter into a development agreement with a private party for the development, construction, and financing of a privately owned and operated transportation or infrastructure project if the development agreement meets certain conditions. It specifies the contents of public-private agreements for transportation facilities or transportation projects and establishes requirements for the operator of the transportation facility or transportation project. It provides for a property tax exemption and a sales tax exemption.

What you need to know

The bill permits P3 funding to be used in transportation and infrastructure projects. This will allow government bodies to partner with the private sector to help finance projects, leveraging local government capital to allow private investment in expediting project schedules and reducing costs.

Latest action

The bill was signed by the governor on March 10.

SEA 351—Virtual Currency

Sen. Chris Garten (R-District 45)

Summary of legislation

The bill adds a new chapter to the Uniform Commercial Code (UCC) that governs transactions involving controllable electronic records and that defines "controllable electronic records." It establishes the following: the extent to which a purchaser acquires rights and interests in controllable electronic records; the circumstances under which a qualifying purchaser acquires rights in a controllable electronic record free of any adverse claim; and the conditions that must be satisfied for a person to be considered to have control over controllable electronic records. It amends certain sections in the UCC chapter concerning secured transactions to reference controllable electronic records and provide for the perfection of a security interest in controllable electronic records by control, or the filing of a financing statement. The bill amends the Indiana statute concerning the unclaimed personal property to add a definition of "controllable electronic record" in that statute; and authorize (rather than require, as specified in current law) the attorney general to adopt rules regarding virtual currency, controllable electronic records, and digital assets, to the extent such rules are consistent with, and not otherwise covered by the bill's provisions, or any other Indiana law concerning virtual currency, controllable electronic records, or digital assets.

What you need to know

The IMBA assisted Sen. Garten in crafting the legislation. The bill contains the language passed in Texas and Nebraska defining "virtual currency." It also establishes a new chapter within the Uniform Commercial Code governing transactions in virtual currency and establishes when a person is considered to have control over virtual currency. This is the first step towards establishing a framework for virtual currency in Indiana.

Latest action

The bill was signed by the governor on March 14.

SEA 357—Acceptance of Electronic Conveyance Documents

Sen. Liz Brown (R-District 15)

Summary of legislation

Effective Jan. 1, 2024, the bill provides that a county recorder, auditor, or assessor may not refuse to accept or endorse a document because the document is an electronic document. It provides that certain recording requirements do not apply to a military discharge, a survey of real property, or a plat of real property. The bill provides that if a county auditor has not collected the recording fee for a tax deed, the county recorder shall collect the recording fee when the tax deed is recorded. It requires the county auditor to use revenue collected for endorsing documents for the maintenance of property tax records (instead of platbooks).

What you need to know

The bill provides that a county recorder, auditor, or assessor may not refuse to accept or endorse a document because the document is an electronic document. The IMBA has heard from members regarding the difficulty in recording electronically executed documents in certain jurisdictions. As a result, the IMBA was supportive of this legislation.

Latest action

The bill was signed by the governor on March 7.

SEA 361—Economic Development

Sen. Ryan Mishler (R-District 9)

Summary of legislation

The bill makes certain amendments to the Hoosier business investment tax credit, the economic development for a growing economy tax credit, the headquarters relocation tax credit, and the redevelopment tax credit. It adds veteran-owned businesses to the list of businesses that would qualify for an enhanced venture capital tax credit. It limits the total amount of credits that the Indiana economic development corporation (IEDC) may award for a calendar year for all taxpayers for all applicable tax credits to \$300,000,000. It specifies the procedure by which the IEDC may designate an area as an innovation development district (district). The bill requires the IEDC to enter into an agreement with the executive of a city, town, or county, or, if applicable, executives, with territory located in the district establishing the terms and conditions governing certain districts. It requires the IEDC to establish a local innovation development district fund for each district. The bill provides that money in a local innovation development district fund is continuously appropriated for the uses of the fund. It authorizes a county, city, or town to establish a workforce retention and recruitment program and fund (fund) for the purposes of recruiting and retaining individuals who will satisfy the current and future workforce needs of the unit's employers or provide substantial economic impact to the unit, including providing incentives in the form of grants or loans to qualified workers. It authorizes the unit to transfer money into the fund from other sources. It provides that the executive of the unit shall administer the fund in coordination with a workforce fund board of managers appointed by the executive of the unit. The bill provides that the IEDC may award a tax credit for media production expenses for certain media productions in Indiana. It provides for the augmentation

of the amount appropriated to the IEDC in an amount not to exceed \$300,000,000 for the purposes of business promotion and innovation. It specifies that funds appropriated to the IEDC for the purposes of business promotion and innovation do not revert to the state general fund. The bill requires the IEDC to identify state laws and regulations that burden existing businesses or inhibit the creation of new businesses and provide a report with recommendations to the general assembly and budget committee.

What you need to know

This bill is the annual Indiana Economic Development Corporation bill. The bill makes certain amendments to the Hoosier Business Investment (HBI) tax credit, the Economic Development for a Growing Economy (EDGE) tax credit, the Headquarters Relocation Tax Credit, and the Redevelopment Tax Credit beginning July 1, 2023. In addition, the bill establishes an Innovation Development District Program beginning July 1, 2023. It establishes the Innovation Development District Fund administered by the IEDC. It provides for the transfer of incremental tax revenue in a district to the fund. It also provides that the IEDC may make grants, loans, or investments from the fund for specified economic development purposes.

Latest action

The bill was signed by the governor on March 15.

SEA 371—Replacement of the London Interbank Offered Rate

Sen. Andy Zay (R-District 17)

Summary of legislation

This bill adds provisions to the title in the Indiana Code concerning financial institutions to provide for the replacement, by operation of law, of the United States Dollar LIBOR as the benchmark index for any contract, security, or instrument, with a recommended benchmark replacement that is based on the secured overnight financing rate (SOFR). It sets forth certain events that serve to trigger the replacement of LIBOR with the recommended benchmark replacement. It specifies that such replacement by operation of law applies with respect to a contract, security, or instrument that either contains no fallback provisions setting forth a methodology or procedure for determining a benchmark replacement or contains fallback provisions that result in a benchmark replacement that is not a recommended benchmark replacement and is based in any way on any LIBOR value. It provides that if a recommended benchmark replacement becomes the benchmark replacement for any contract, security, or instrument, any applicable benchmark replacement conforming changes become an integral part of the contract, security, or instrument by operation of law. The bill provides that the its provisions do not alter or impair contracts, securities, or instruments that contain certain provisions. It provides that the selection or use of a recommended benchmark replacement as a benchmark replacement for a contract, security, or instrument constitutes a commercially reasonable replacement for and a commercially substantial equivalent to LIBOR and does not impair or affect certain rights and performance obligations under; constitute a breach of or void or nullify the contract, security, or instrument. It provides that a person is not liable for damages and is not subject to any claim for equitable relief, in connection with the selection or use of a recommended benchmark replacement or the determination, implementation, or performance of benchmark replacement conforming changes, with respect to any contract, security, or instrument. It makes a cross-reference to this immunity provision in the chapter of the Indiana Code that lists statutes outside of Title 34 of the Indiana Code that confer civil immunity.

What you need to know

The IMBA was supportive of the bill. The bill provides protection for lenders prescribing that Secured Overnight Funding Rate is the default alternative reference interest rate for existing contracts where no alternative rate other than LIBOR is provided. The language in the bill mirrors what was passed in New York and Alabama legislatures in 2021. The IMBA worked with Sen. Zay on the legislation.

Latest action

The bill was signed by the governor on March 10.

SEA 382—Various Tax Matters

Sen. Travis Holdman (R-District 19)

Summary of legislation

The bill allows certain corporations to make an election to determine the corporation's state-adjusted gross income tax under specified provisions. It requires all wagering taxes to be reported and remitted electronically through the department of state revenue (department) online tax filing program. It amends the distribution date for certain alcoholic beverage tax revenue and wagering tax and fee revenue. It provides that a taxpayer is not required to file subsequent personal property tax returns for the business personal property exemption. The bill provides that the true tax value of a self-service storage facility must be determined based solely on the land and the improvements, less normal depreciation, and normal obsolescence, and must exclude business intangible value. It clarifies provisions regarding application of the sales tax to transactions in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business. It reorganizes and revises provisions that apply to the sales tax exemption for nonprofit organizations. The bill reorganizes and revises provisions regarding sales tax exemptions for utilities. It provides required report filing deadlines for exempt transactions for certain retail merchants. It provides that if an amount would have been excludible under Section 108(f)(5) of the Internal Revenue Code as in effect on January 1, 2020, the amount is not required to be added back under the Indiana adjusted gross income provisions. The bill requires certain state or local government employees to submit to criminal history background checks at least once every five years (as opposed to 10 years under current law). It allows certain small businesses to deduct amounts paid for health insurance premiums from Indiana adjusted gross income and amends sales tax provisions that apply to wholesale sales. The bill clarifies that a marketplace facilitator is considered the retail merchant for transactions it facilitates on its marketplace regardless as to whether the marketplace facilitator has a contractual relationship with the seller. The bill allows nonresident shareholders and partners of a partnership to make an election to opt-out of withholding tax requirements in certain specified circumstances. It clarifies the reporting process used for distribution of local income tax (LIT) revenue to conform to current practice. It amends due date provisions for returns, refunds, assessments, or other submissions under the state income tax and financial institutions tax. It provides that an election by a corporation to make a consolidated return continues to apply following a corporate reorganization or sale. The bill makes technical and clarifying changes to the procedures for reporting federal partnership audit adjustments. It provides an affordable and workforce housing state tax credit against state tax liability to a taxpayer for each taxable year in the state tax credit period of a qualified project in an aggregate amount that does not exceed the product of a percentage between 40% and 100% and the amount of the taxpayer's aggregate federal tax credit for the qualified project. It provides that an eligible applicant must apply to the Indiana housing and community development authority for an award of an affordable and workforce housing state tax credit. It provides that a holder of an affordable and workforce housing state tax credit may transfer, sell, or assign all or part of the

holder's right to claim the state tax credit for a taxable year. The bill increases the number of years a LIT expenditure tax rate for correctional facilities and rehabilitation facilities may be imposed from 22 to 25 years in the case of a tax rate adopted after January 1, 2019. It adds procedures to allow the department to offset LIT distributions to local units when an over distribution has been made either in error or because a taxpayer refund is approved after the distribution. It makes a technical correction to tax penalty provisions that apply to pass-through entities. The bill reduces the tax rate imposed on the distribution of closed system cartridges beginning July 1, 2022, from 25% to 15% of the wholesale price. It requires remote sellers to collect the tobacco products tax on taxable products. The bill imposes a tax on the distribution of alternative nicotine products in Indiana based on a rate of \$0.40 per ounce of the product weight as listed by the manufacturer. It defines "alternative nicotine products" for purposes of the tax. It clarifies that, in the case of distributor-to-distributor transactions, the tobacco products tax is imposed at the time a distributor first receives the tobacco products in Indiana. The bill amends provisions that apply to a refund of a tobacco products license fee when a license is surrendered to the department before its expiration. It imposes a penalty on retailers who purchase tobacco products or cigarettes from a distributor who has not obtained a registration certificate from the department (or whose registration certification is revoked or suspended). It authorizes the department to revoke or suspend a registration certificate for failure to comply with certain reporting requirements. It provides the basis upon which the department may refuse to issue or renew a registration certificate. It provides that the department may require reporting of any information reasonably necessary to determine alcoholic beverage excise tax liability. The bill clarifies provisions that specify the effective date of an innkeeper's tax ordinance and the subsequent tax collection duties of the department. It adds similar provisions under the food and beverage tax. It requires the budget agency to transfer \$7,100,000 from the state general fund to the Indiana mapping data and standards fund to be used for the implementation of the geographic information system (GIS) for the state and local income taxes, as well as listed taxes, administered by the department and the purposes of the Indiana geographic information office. The bill requires the budget agency to create a report on the current GIS related contract costs for all state agencies that could be eliminated to offset the required future state appropriations needed to fund the office and submit the report to the Interim Study Committee on Fiscal Policy before November 1, 2022. It changes population parameters to reflect the population count determined under the 2020 decennial census. It provides that revenue received from the Nashville Food and Beverage Tax may be used for grants to local businesses to make building improvements. The bill removes an outdated reference in the Indiana Administrative Code regarding a property tax exemption for public airports.

What you need to know

This bill is the annual Department of Revenue agency bill that makes numerous technical corrections to the Indiana tax code. This bill also included the hot topic issue of reducing the tax on e-cigarettes, vaping products, and cigars. Additionally, during the conference committee, Senate Bill 262 Housing Tax Credits was added into SEA 382. This creates a new housing tax credit in Indiana, which is designed to complement federal housing tax credits (Section 42). This enhancement will increase the viability of new development in the multi-family housing space. The IMBA was in support of SB 262.

Latest action

The bill was signed by the governor on March 15.

SEA 383—Financial Institutions and Consumer Credit

Sen. Eric Bassler (R-District 39)

Summary of legislation

The bill provides that a reference to federal law in the first lien mortgage lending act, the Uniform Consumer Credit Code (UCCC) or the Indiana Code title governing financial institutions, is a reference to the law as in effect Dec. 31, 2021 (versus Dec. 31, 2020, under current law). The bill amends the provisions in the UCCC governing authorized finance charges for consumer loans (other than supervised loans) and for supervised loans to specify that the entire section governing finance charges for consumer loans (other than supervised loans) does not apply to supervised loans and the loan finance charge for a supervised loan must be a contract between the lender and the debtor; and calculated by applying a rate not exceeding the authorized rate to unpaid balances of the principal. The bill amends provisions in the UCCC concerning permitted additional charges for guaranteed asset protection (GAP) agreements for consumer credit sales and consumer loans to specify that the average retail value for a used motor vehicle that is the subject of a GAP agreement is to be determined by using a third-party valuation service provider customarily relied upon in the used motor vehicle commercial market (versus by using the National Automobile Dealers Association average retail value, under current law). It amends the Indiana Code section concerning the department's duties of confidentiality with respect to certain information concerning financial institutions to specify that those duties apply to all regulated entities licensed or registered with the department. The bill specifies that the required fidelity coverage for credit unions applies to those directors, officers, and employees of the credit union who have access to money or bonds of the credit union and must be approved annually by the credit union's board of directors as to the amount and form. It amends the statute governing money transmitters to provide that a "payment instrument" does not include a "stored value account" and remove the definition of "stored value account". It changes references to a "federal savings and loan association" to a "federal savings association" for purposes of the statute concerning mergers, consolidations, and conversions involving federal savings associations and savings associations chartered in Indiana, to specify that a federal savings association may convert into a savings association chartered in Indiana.

What you need to know

This is the annual Department of Financial Institutions omnibus bill. The bill makes several changes to Indiana statute related to financial institutions. The IMBA has reviewed the bill and had no concerns.

Latest action

The bill was signed by the governor on March 7.

SEA 388—Foreign Gifts and Ownership of Agricultural Land

Sen. Mark Messmer (R-District 48)

Summary of legislation

The bill requires a postsecondary educational institution (institution) to submit a disclosure report to the Indiana commissioner for higher education (commissioner) of gifts from a foreign source that meet the reporting threshold established by a federal law regarding disclosures of foreign gifts. It provides that the institution shall submit the disclosure report to the commissioner with the same information required to be reported in the disclosure report described in the federal law and at the same time the institution files the disclosure report under the federal law. It provides that certain information for each institution shall be posted on the

commission for higher education's (commission) Internet website. It provides that whenever it appears that an institution has failed to comply with gift disclosure requirements, a civil action may be brought by the attorney general or at the request of a member of the general assembly, the Governor, a member of the commission, a member of the state board of education or an Indiana taxpayer; to compel compliance with the gift disclosure requirements. The bill provides that beginning July 1, 2022, a foreign business entity may not acquire agricultural land located within Indiana for the purposes of crop farming or timber production. It specifies exceptions. It prohibits a foreign business entity that owns agricultural land located within Indiana from transferring the agricultural land to another foreign business entity after June 30, 2022, for the purposes of crop farming or timber production. The bill requires a foreign business entity to report the acquisition, sale, or transfer of agricultural land for the purposes of crop farming or timber production located within Indiana to the secretary of state and the attorney general. It provides that agricultural land acquired, sold, or transferred in violation of law is subject to forfeiture to the state. The bill adds a provision to prohibit business entities organized under the laws of the Russian Federation; or wholly controlled by a citizen or citizens of the Russian Federation who are not legal residents of the United States; from holding and conveying real property located within Indiana.

What you need to know

This bill is intended to prevent foreign ownership of agricultural land, making stipulations regarding foreign businesses interested in Indiana agricultural land. If a foreign entity acquires, sells, or transfers agricultural land, it must be reported to the Secretary of State's Office and the Attorney General's Office. The bill does not apply to agricultural land used for raising or producing eggs or poultry, including hatcheries and other ancillary activities; it prevents foreign entities from owning land for farming and timber production. It was brought forward to prevent China from buying property for their one belt one road plan.

Latest action

The bill was signed by the governor on March 18.

HEA 1001 – Administrative Authority; COVID-19 Immunizations

Rep. Matt Lehman (R-District 79)

Summary of legislation

The bill does the following:

Medicaid: The bill allows the secretary of Family and Social Services (FSSA Secretary) to issue a waiver of human services statutory provisions and administrative rules if the FSSA Secretary determines that the waiver is necessary to claim certain enhanced federal matching funds available to the Medicaid program.

Supplemental Nutrition Assistance Program (SNAP): The bill allows the FSSA Secretary to issue an emergency declaration for purposes of participating in specified authorized federal Supplemental Nutrition Assistance Program (SNAP) emergency allotments.

Immunizations: The bill allows the State Health Commissioner of the State Department of Health (IDOH) or the IDOH Commissioner's designated public health authority to issue standing orders, prescriptions, or protocols to administer or dispense certain immunizations for individuals who are at least five years old. (Current law limits the age for the Commissioner's issuance of standing orders, prescriptions, and protocols for individuals who are at least 11 years old).

Immunization Passports: The bill defines "Indiana governmental entity" and specifies that an Indiana governmental entity (current law refers to a state or local unit) may not issue or require an immunization passport.

Unemployment Insurance: The bill provides that an individual is not disqualified from unemployment benefits if the individual has complied with the requirements for seeking an exemption from an employer's COVID-19 immunization requirements and was discharged from employment for failing or refusing to receive an immunization against COVID-19.

Employers: The bill provides that an employer may not impose a requirement that employees receive an immunization against COVID-19 unless the employer provides individual exemptions that allow an employee to opt out of the requirement based on medical reasons, religious reasons, or immunity from COVID-19 acquired from a prior infection with COVID-19.

What you need to know

The bill is divided into two main parts. The first part places in statute language that is needed to claim certain enhanced federal matching funds available to the Medicaid program in the absence of an executive order. The second part placed new requirements on employers that mandate vaccinations as a condition of employment. The IMBA was concerned about the impact and costs these new requirements would have had on financial institutions. The Senate removed the concerning provisions related to employers including exemptions, adverse action against employers and cost of testing. The bill is effective upon passage.

Latest action

The bill was signed by the governor on March 3.

HEA 1002 – Various Tax Matters

Rep. Tim Brown (R-District 41)

Summary of legislation

The bill does the following:

Excess Reserves: It specifies that the amount of excess combined reserves that may be transferred to the pre-1996 account in 2022 may not exceed \$2.5 billion.

Individual Income Tax: It reduces the Individual Adjusted Gross Income Tax Rate from 3.23% in 2022 to 3.15% in 2023 and 2024. It phases down the Individual Adjusted Gross Income Tax rate after 2024 depending on certain conditions being met.

Business Personal Property Tax: It allows a taxpayer to elect a special property tax valuation method for mini-mill equipment. (Current law allows the method to be used only for certain integrated steel mill and oil refinery/petrochemical equipment.)

Utility Receipts Tax: It repeals the Utility Receipts Tax and Utility Services Use Taxes.

Rate Adjustments for Utility Receipts Tax: It requires a utility that is subject to the jurisdiction of the Indiana Utility Regulatory Commission (IURC) for the approval of rates and charges to file a rate adjustment with the IURC that adjusts the utility's rates and charges to reflect the repeal of the Utility Receipts Tax. It requires a utility that is subject to the Utility Receipts Tax and not under the jurisdiction of the IURC to adjust the utility's rates and charges to reflect the repeal of the Utility Receipts Tax. It requires each utility to provide notice to the utility's customers that the adjustment in rates and charges reflects the repeal of the Utility Receipts Tax. It specifies taxpayer procedure for the repeal of the Utility Receipts Tax and Utility Services Use Tax.

Managed Care Program: It provides that the Office of the Secretary of Family and Social Services Administration may not enter into a final contract that would implement a risk based managed care program or capitated program for the specified Medicaid population before January 31, 2023.

What you need to know

This final version of the bill includes several key provisions in the initial House approach to reducing Indiana taxes by \$1 billion. Notable changes include a reduction in the individual income tax and the elimination of the utility receipts tax.

Latest action

The bill was signed by the governor on March 15.

HEA 1034 – Tax Increment Financing

Rep. Jerry Torr (R-District 39)

Summary of legislation

The bill does the following:

Liens: The bill provides that a lien resulting from an agreement between a redevelopment commission (commission) and a taxpayer in an allocation area takes priority over any existing or subsequent mortgage, other lien, or other encumbrance on the property, and must have parity with a state property tax lien under IC 6-1.1-22-13. It provides that a lien resulting from a taxpayer agreement will have the priority of real property taxes and may be enforced and collected in all respects as real property taxes.

Marketing: The bill also provides that a commission, or two or more commissions acting jointly, may contract for marketing and advertising of land located in an allocation area. It imposes a limitation on the amount available to be spent on the marketing and advertising of land in an allocation area.

What you need to know

The bill clarifies existing statute regarding the lien priority of a Tax Increment Financing (TIF) agreement. TIFs currently have a priority over all other interests based on the alignment with property taxes. The IMBA monitored the bill to ensure no other changes were proposed related lien priority. The IMBA was neutral on the clarification.

Latest action

The bill was signed by the governor on March 8.

HEA 1045 – 529 College Savings Accounts

Rep. Dave Heine (R-District 85)

Summary of legislation

The bill increases the maximum amount of the annual credit against adjusted gross income to which a taxpayer is entitled for a contribution to College Choice 529 Education Savings Plan.

What you need to know

The bill increases the maximum amount of eligible credit against state income tax liability for a contribution to a college choice 529 plan. The bill increases the total credit amount to \$1500, up

from a cap of \$1000. It also increases the amount in cases of a married individual filing a separate return from \$500 to \$750.

Latest action

The bill was signed by the governor on March 8.

HEA 1048 – Sheriff’s Sale in Mortgage Foreclosure Action

Rep. Sean Eberhart (R-District 57)

Summary of legislation

This bill allows the sheriff to conduct a public auction electronically. It prohibits certain persons and entities from purchasing a tract at a sheriff’s sale. It requires each person bidding at a sheriff’s sale to sign a statement containing a notice of the law and certain affirmations. It raises the amount that a sheriff can charge for administrative fees from \$200 to \$300.

What you need to know

The bill also prohibits certain persons and entities from bidding and purchasing properties at a sheriff’s sale. The IMBA grew concerned about this language inadvertently prohibiting the foreclosing party bidding on the property in question. The IMBA worked to amend the language that prohibited certain individuals from purchasing properties at sheriff sale so that the foreclosing party would not be impacted. The bill also raises the amount that a sheriff can charge for administrative fees from \$200 to \$300, adjusting for the cost of inflation. The IMBA worked with members to reduce the initial increase of the sheriff sale fee of \$500 that was in the introduced version of the bill.

Latest action

The bill was signed by the governor on March 14.

HEA 1092 – Business Association Matters

Rep. Bob Heaton (R-District 46)

Summary of legislation

This bill has the following provisions: removes the requirement that licensees must file to renew their license at least 30 days before the license expires; requires loan brokers to provide all parties to a services contract with written notice if the loan broker has an exclusive agreement to refer all loans from one lender; removes solicitors from the definition of investment adviser representative; defines "third party solicitor" and describes a "third party solicitor's written disclosure document" for the Indiana Uniform Securities Act; requires certain disclosures to the client regarding a third-party solicitor; and removes requirement that a secured party provide a copy of a financing statement to a debtor no later than 30 days after the financing statement is filed.

What you need to know

The bill comes from the Securities Division of the Indiana Secretary of State’s Office. The introduced version of the bill contained restrictive language regarding first lien mortgage lenders. The bill also included language that required additional requirements on financial institutions regarding internal referrals for investment advice. The IMBA worked with the Secretary of State’s Office to amend both provisions. The IMBA also included an amendment

that updated the Uniform Commercial Code as it related to providing financing statements for debtors.

Latest action

The bill was signed by the governor on March 18.

HEA 1205 – Uniform Trust Decanting Act and Trustee Duties

Rep. John Young (R-District 47)

Summary of legislation

The bill allows a trustee of an irrevocable trust to appoint a successor trustee or multiple trustees. It provides that a trustee's power to appoint a successor trustee includes the power to allocate trustee powers to one or more trustees. It enacts the uniform trust decanting act. It creates a definition of the decanting power to include a power by a trustee to make limited modifications to an irrevocable trust, including an asset transfer to a new trust. It requires that a modification be consistent with a settlor's or charitable organization's intent. It permits the trustee of an existing trust to make modifications to or distributions from an existing trust for the benefit of a disabled beneficiary. It prohibits a trustee from being required to decant. It requires advanced notice to all qualified beneficiaries. It also provides that the decanting power of an authorized fiduciary is not precluded by certain terms. (The introduced version of this bill was prepared by the Probate Code Commission.)

What you need to know

The bill originated from discussions over the summer during the interim Probate Code Study Commission. The bill implements the Uniform Trust Decanting Act. The IMBA has no concerns with the bill or the work the Probate Code Study Commission did this summer.

Latest action

The bill was signed by the governor on March 18.

HEA 1208 – Various Probate and Trust Matters

Rep. John Young (R-District 47)

Summary of legislation

The bill in one instance in the law on health care advance directives, changes the word "testator" to "declarant". It amends several provisions relating to the filing of notices to make those provisions consistent with Rules of Trial Procedure 86 and 87 concerning electronic filing. It resolves inconsistencies in two sections of the chapter on dispensing with administration so that those sections authorize a fiduciary to distribute and disburse the estate assets before filing a closing statement. It authorizes the appointment of a special administrator under certain circumstances and establishes a procedure for the appointment of a special administrator for the purpose of pursuing a claim for a decedent's wrongful death. In a section concerning the filing of an electronic will, the bill replaces an incorrect reference with a reference to the Rules on Access to Court Records. It provides that a video or audio recording of a principal who executes a power of attorney may be admissible as evidence of matters relevant to the validity or enforceability of the power of attorney. It provides that any objection to a final account and petition for distribution of a decedent's estate must be filed at least 14 days before the hearing date. It eliminates references to a trustee "docketing" a trust and identifies permissible methods for the filing of a copy of a trust instrument with a court. It amends two definitions of "electronic power of attorney" to provide that an electronic power of attorney may be signed in the

presence of witnesses instead of being notarized. It provides that a person who has been found guilty, or guilty but mentally ill, on a charge of causing an unlawful death of a decedent is a constructive trustee of certain property acquired or entitled to be received by the culpable person. It also includes a married individual who does not have any dependents and whose death was caused by a spouse within the definition of "adult person" for the purpose of a wrongful death action.

What you need to know

The bill originated from discussions over the summer during the interim Probate Code Study Commission. The bill makes various changes to Indiana statutes on will and estate laws. The IMBA has no concerns with the bill or the work the Probate Code Study Commission did this summer.

Latest action

The bill was signed by the governor on March 18.

HEA 1306 – Housing Task Force

Rep. Doug Miller (R-District 48)

Summary of legislation

This bill establishes the Housing Task Force (Task Force) to review issues related to housing and housing shortages in Indiana. The bill sets forth membership and requires the Task Force to issue a report to the General Assembly and the Governor not later than November 1, 2022.

What you need to know

The IMBA is in support of this approach. The task force includes a seat to be recommended by the Indiana Bankers Association.

Latest action

The bill was signed by the governor on March 11.

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