

July 18, 2014

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New Marketplace Fairness Bill Introduced in Senate

On Tuesday, July 15, a group of bipartisan senators led by Mike Enzi (R-WY), Dick Durbin (D-IL), Lamar Alexander (R-TN), Heidi Heitkamp (D-ND), Susan Collins (R-ME) and Mark Pryor (D-AR) introduced S. 2609, the Marketplace and Internet Tax Fairness Act (MITFA). The new legislation combines a re-tooled Marketplace Fairness Act (MFA) and a 10-year extension of the Internet Tax Freedom Act. MFA originally passed in the Senate in May 2013 by a 69-27 vote.

If enacted, MITFA will increase sales tax collection parity for brick-and-mortar and Internet retailers, simplify state tax filing for individuals and help address state budget shortfalls at no cost to the federal government. The legislation also provides tax-free access to the Internet through 2024. The bill is being fast-tracked under Senate procedural rules and consideration on the Senate floor could begin as early as next week. This legislation will also need approval in the House of Representatives. ICSC supports S. 2609 and urges passage.

To send a tweet to your Senator in support of MITFA, [click here](#) and select your state from the “Send a Tweet” section of the website.

For more information, [please click here](#) or contact Jennifer Platt, jplatt@icsc.org, vice president of ICSC Federal Operations.

TRIA Reauthorization Passes in Senate

On Thursday, July 17, the Senate overwhelmingly approved S. 2244, The Terrorism Risk Insurance Program Reauthorization Act of 2014, by a vote of 93-4. This legislation would reauthorize the current TRIA program for an additional seven years while implementing further taxpayer safeguards and program enhancements. With such strong bipartisan support for reauthorization coming out of the Senate, the legislation will now be sent to the House for consideration. ICSC strongly supports S. 2244, The Terrorism Risk Insurance Program Reauthorization Act of 2014.

In the House of Representatives, the Financial Services Committee voted to send H.R. 4871, The TRIA Reform Act of 2014, to the House of Representatives at-large for full House consideration. In contrast to the now-approved Senate legislation this House version would drastically change the current TRIA program by increasing the program trigger from \$100 million to \$500 million, bifurcating between conventional and NBCR (nuclear, biological, chemical and radioactive) terrorism, including a small insurer program “opt-out,” and changing the current recoupment provision. The exact timing of a full House vote on H.R. 4871 is still unclear, but may come as early as next week. The TRIA federal backstop expires at the end of 2014. For more information, please contact Mike Anderson at mranderson@icsc.org.

Energy Efficiency Legislation Introduced in House of Representatives

Last week, Representatives Marsha Blackburn (R-TN) and Kurt Schrader (D-OR) introduced H.R. 5027, The Energy Savings and Building Efficiency Act. The bill will ensure that those adopting baseline energy codes will realize a 10-year payback period, and also prevents the Department of Energy (DOE) from advocating for the use of their “preferred” products, which would ensure product-neutrality in energy code development. The bill will facilitate energy efficient building practices in commercial and residential real estate at a reasonable pace, while ensuring that builders are afforded the choice to use materials suitable for any climate or aesthetic purposes. The bill has been endorsed by

ICSC and other major real estate trade associations. For more information, please contact Abby Jagoda at ajagoda@icsc.org.

House Members Introduce Legislation to Prohibit CWA Overreach

On Wednesday, July 16, bipartisan legislation to prohibit the Environmental Protection Agency (EPA) and the Army Corps of Engineers from implementing the rule to broaden the scope of the Clean Water Act (CWA) passed through the House Transportation and Infrastructure Committee. The bill was introduced in the House last week by Representative Steve Southerland (R-FL). The bill, H.R. 5078, The Waters of the United States Regulatory Overreach Protection Act, would prohibit EPA and the Army Corps from moving forward with the proposed rule, previous guidance, the agriculture-focused interpretive rule, and also mandates specific consultation with state and local authorities. The bill has been endorsed by a wide range of stakeholders, including ICSC and related business and real estate groups. For more information, please contact Abby Jagoda at ajagoda@icsc.org.

GA: Cobb Commission Approves Zoning Change for Braves' Mixed-Use Development

Earlier this week the Cobb County Commission unanimously approved a zoning change that will allow the Atlanta Braves to continue with a mixed-use development near the proposed site of the new stadium, despite some opposition from nearby properties. The team will spend approximately \$400 million on the mixed-use development, which includes residential units along with retail, entertainment and office space.

MA: Legislation Introduced for Private Construction Retainage Rates

Two trade groups, Associated Subcontractors of Massachusetts and Associated General Contractors of Massachusetts, came together to resolve longstanding differences and propose new legislation reducing the amount of money held back by project owners on certain private sector construction projects to assure that work is satisfactorily completed. The proposed bill would create a timeline and process for closing out payments on projects with values above \$3 million while bringing retainage amounts on private construction projects over \$3 million down to 5 percent from the current 10 percent. ICSC questions the need for a law since the provisions in the bill can be executed through a construction contract and is concerned about safeguards for owners in the event of faulty work.

NY: Legislature Passes Brownfield Cleanup Program Extender

On June 20, The New York State Legislature voted to extend the state's brownfield tax credit program for 15 months. It was originally due to expire at the end of next year. The program, which provides tax breaks to developers who clean up and build on contaminated land, is now set to expire at the end of March 2017. Governor Andrew Cuomo proposed extending the program for 10 years as part of the state budget negotiations earlier this year, but with a series of reforms meant to keep remediation credits limited to cleanup costs, not development. Gov. Cuomo and legislative leaders couldn't come to an agreement in the budget or at the end of the session. Lawmakers instead opted for a short-term extension of the current program, which will hopefully allow time for them to negotiate reforms to the program. The Governor is expected to sign the extension into law.

TX: Legislators Discuss the Need for E-Fairness

On July 8, a coalition of Texas state legislators, local community business leaders, policy leaders and Tea Party activists held a press conference at the Texas State Capitol to discuss the findings of a study authored by economist Dr. Art Laffer that outlines a plan for Texas to significantly reduce the Margins Tax once Congress closes the online sales tax loophole that gives out-of-state and online retailers a competitive advantage over local businesses. The study is an addendum to "Pro-Growth Tax Reform & E-Fairness" authored by Dr. Laffer. It provides an outline for Texas to reduce the Margins Tax and restore basic free market principles with e-fairness. The study shows that federal passage of e-fairness legislation would allow policymakers in Austin to reduce the Margins Tax by at least 60 percent, and would create an additional 139,000 jobs over the next decade.

Speaking for the group, State Representative Dan Flynn (R-Van), vice chairman of the Investment and Financial Services Committee, said, "Action by Congress this year to bring sales tax parity for Texas retailers would give our state the flexibility it needs to dramatically reduce the unfair and poorly constructed Margins Tax and ensure that we continue to be a magnet for job creators. It's time Congress gives power back to the states so that we can enact tax reform policies that ignite economic growth."

Are You Involved in the Political Process? Let Us Know!

ICSC recently launched a survey to gauge the level of political engagement and relationships with elected officials that

ICSC member have. If you have not done so yet, please take a moment to fill out our brief survey. It only takes about 5 minutes to complete and will make a tremendous difference in ICSC's ability to advocate at the state and federal levels on issues that are vital to the retail real estate industry. [Click here to begin the survey.](#)

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