

Government Affairs Report

From: Elizabeth J. Wysong Berg, Chair

To: ILTA Membership

Date: September 14, 2020

Committee Members: Elizabeth J. Wysong Berg, Chair, Kassandra Green, Vice-Chair, Charlie Hiltunen, Lobbyist, Alan Anderson, Amy Comer Elliott, Andrea Ewan, Andrew Drake, Beth Beech, Bob Wartenbe, Brandi Halcomb, Craig Doyle, Dan Fowler, Dan Rohaley, Dan Slusser, Daniel Christian, Danielle Kaiser, David Clossin, David Townsend, Dean Lopez, Dena Farling, Donna Thomas, Janet Hocker, Jason P Lueking, Jeff Lorenzo, Jennifer Jones, Jerry Leugers, Jessica McAlpin, John Bethell, Kathy Hulbert, Kerry Heiser, Kimberly Racey, Kristen Gettys, Kurt Laker, Laura Francesconi, Mark Wynn, Mary Slade, Matt Russell, Michael Schmitz, Mike Duffy, Mike Poppe, Mike Schuh, Miranda Bray, Morrie Erickson, Pat Quist, Ray Summeier, Rick Hendrickson, Ruthann Stenger, Scott J. Fandre, Scott York, Stanley Czaja, Stephanie Reinhart Rock, Steve Bolla, Steve Palmquist, Laura Hardy, Suzanne M. Kizior, Tania Burke, Thomas Fickle, Leslie Wagers, Kathy Riland-Hinton

Legislation:

This year involved a lot of defense and some offense. The biggest defense your government affairs team played was on SB 43 and HEA 1372. Senate Bill 43 involved proposed amendments of fraud statutes and reduced many instances of insurance fraud from felonies to misdemeanors. It did not become law. HEA 1372 was the data privacy bill which was originally written by the NAIC. ILTA worked hard to ensure there were modifications so that our industry would not have multiple standards to follow between this legislation and the Gramm-Leach Bliley Act. There are still portions of this bill that do apply to all ILTA members.

We also worked with the bill authors and proponents of SEA 50 and SEA 260. SEA 50 concerned probate matters including the devolution affidavit. ILTA worked with the authors and legislators to change some language to make it more user friendly. SEA 260 involved property rights, and ILTA made sure the statute included a requirement to record.

The GA Committee continued to pursue a fix for the Integrity case. Integrity involves agent liability to insureds for negligent misrepresentation. We could not reach agreement with Bankers in regard to language.

The Committee is also still working on the judgment docket and new Sales Disclosure Form issues.

COVID-19 Activities

Session ended quickly and in a flurry/fury on March 14, 2020 due to COVID-19 concerns. Almost immediately, ILTA members began reporting closures of Indiana County offices at an alarming rate. ILTA's Executive Director, Bethany Paden, developed a webpage for our

member's use to track these closures. This webpage frequently was used by IBA, MBA, and government officials to see what was actually going on throughout the state. Michael Poppe, Jessica McAlpin, Beth Beech, and Bethany Paden worked a lot to keep the list as up-to-date as possible as the various closures were reported.

By the end of March, ILTA also worked with its partners to send a letter to Governor Holcomb mandating access to county offices and fast-tracking Remote Online Notary implementation. The Indiana Association of Realtors, IMBA, ISBA, and IBA along with ILTA worked hand-in-hand to make sure that we were deemed essential, and we were!

April and May were unprecedented for all of us. ILTA continued to work with counties to keep track of who was open when and to what extent. Thank you to EVERY MEMBER who sent in additional information as it came to them. As counties started to open, ILTA also became aware of issues concerning processes between offices, package delivery issues, and recording timeline errors. In early June, memos were written and shared with the Recorders' Association and Association of Indiana Counties to address these concerns.

SEA 340/Proof and Acknowledgment Requirements

In mid-June, the National Notary Association reached out to ILTA due to the change in 32-21-2-3 which was an "or" to an "and." This change required a proof to be included along with the acknowledgment on any document that is recorded. The change to 32-21-2-3 was proposed in second house at the very end of session and the proponents of the bill thought it did not change the practice of only an acknowledgment being required. At first, many people agreed this was not a change from the regular practice of notarizing documents in order for them to be recorded.

GA and Underwriter members quickly began research this issue to figure out the definition of a proof (using very old law and other states' laws), contents of a proof, and steps required to record documents after July 1, 2020. Beth Beech, Dena Farling, Mary Slade, and Elizabeth Berg produced ILTA's FAQs.

After FAQs were produced, ILTA moved onto the possibility of stopping the implementation of the law. ILTA's board engaged the services of Scott Fandre to draft a Complaint for an injunction. Many hours were spent behind the scenes by ILTA's lobbyist, Charlie Hiltunen, discussing standing, constitutionality, and signing of affidavits with the State Government. (There were a lot more issues that I do not have time to list – trust me. EJWB). The Complaint was filed on August 25, 2020 and a hearing on September 14, 2020, Scott Fandre argued our position to Judge Osborne. Many thanks go to the following: Our President Kurt Laker, who worked with the Marion County Recorder, Kate Sweeney Bell, to be a named Defendant; Scott Fandre, who has worked very hard and answered a lot of questions for the association; Mike Moore, Jeff Bosse, Jr., and Kyle Sommers who agreed to be Plaintiffs along with our association and attend hearings. At this time, we are waiting on the Court's ruling.

At this juncture, the GA Committee is also working with stakeholders on language to be presented to the Probate Study Commission at the end of September. There are kinks to work out still, but everyone is in agreement that we need to fix the law so there is no proof/witness requirement.

The Future

The GA Committee is already hard at work under Cassandra Green's leadership. She will be the GA chair for the 2021 session, which is guaranteed to be interesting. The election in November could shake up the make-up of the legislature in many key leadership positions AND no one knows exactly what session will look like. Therefore, the GA Committee will have to be ready for anything. We would love anyone interested in reading bills and drafting legislation that affect our daily work-lives to be a part of our committee. Please e-mail Bethany Paden at admin@indianalandtitle.org, and she will get you signed up.

Respectfully submitted,

Elizabeth J. Wysong Berg