

**BEERS MALLERS
BACKS & SALIN, LLP**

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LAWYER PROFILE FOR FALL 2010

This month we would like to feature Laura Maser. Laura's practice is focused on representing businesses in matters involving employment discrimination, ADA, ADEA, FMLA, workers' compensation, and wage and hour issues. She regularly appears before local, state and federal administrative agencies such as the Fort Wayne MHRC, the ICRC, and the EEOC, and state and federal courts.

Laura also routinely advises clients regarding trade secrets, non-competition agreements and tortious interference and has experience litigating such matters at the preliminary injunction stage and beyond. Laura has successfully represented business clients before the Indiana and Seventh Circuit Court of Appeals and also counsels clients on compliance and preventive measures in order to avoid court appearances.

Laura participates in and conducts seminars for HR specialists, business owners, and supervisors on a variety of employment-related issues. Laura also practices in the areas of municipal law and commercial litigation.

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The information provided in *Business Law Summary* is a review of current legal developments. The articles are not intended to be exhaustive discussions of the issues they address. They are not intended, nor should they be used, to determine rights and liabilities under particular facts. If you have a specific legal issue, contact one of our attorneys. No articles may be reproduced without written permission from the authors. Please contact one of our attorneys with any comments, suggestions or questions.

BUSINESS LAW SUMMARY

NEWS AND IMPORTANT INFORMATION FOR YOUR BUSINESS

NEW LAWS THAT MAY AFFECT YOUR BUSINESS



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The 116th Indiana General Assembly has concluded its 2010 Regular and Special Sessions. Below you will find amended and/or new laws in the area of labor, professions and occupations, and real estate which may affect you or your business operation.

Labor:

- Effective July 1, 2010 under Indiana Code 22-3-3-4 an employer or employer's insurance carrier may not delay the provision of emergency medical care for worker's compensation disabilities whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

Professions and Occupations:

- The legislature has defined an "appraisal management company" as a person that, for compensation, acts as a third party intermediary by contracting with independent real estate appraisers to perform appraisals for other persons under Indiana Code 25-34.1-11.

- The appraisal management company must register with the real estate appraiser licensure and certification board.
- The appraisal management company may only hire an independent contractor to perform an appraisal who holds a real estate appraiser license or certificate or a real estate broker license and is in good standing.

Real Estate:

- Effective July 1, 2010 under Indiana Code 6-1.1-24-6.8 a county may sell a vacant parcel acquired by the county in a tax sale to the owner of a contiguous residential parcel for \$1 if the contiguous parcel is entitled to the standard property tax deduction.
- The consolidated parcel is entitled to an exemption from property taxation in the amount of the assessed value of the vacant parcel at the time of consolidation until the earlier of (1) the next transfer of title after consolidation; or (2) five years after the transfer of the title to the successful applicant.
- The new law further provides that the tax deed conveys title subject to all easements recorded before the date of the tax sale.



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TAKE YOUR GUNS TO WORK LAW



On July 1, 2010, Indiana enacted PL. 90-2-1, now codified at I.C. 34-28-7 and commonly known as the “take your guns to work law.” The law prohibits employers from adopting or enforcing a rule that prohibits or has the effect of prohibiting, employees from possessing a firearm or ammunition that is locked in the trunk of the employee’s vehicle, kept in the glove compartment of the employee’s locked vehicle, or stored out of plain sight in the employee’s locked vehicle. Certain employers, including schools, some public utilities, child care facilities, chemical plants and group homes, are exempt from the law.

An employee who believes that he or she has been harmed by an employer’s violation of the law can now bring a civil action for (1) actual damages; (2) court costs; (3) attorney’s fees; and (4) an injunction to prohibit the employer’s further violation of the law.

Employers often maintain anti-violence in the workplace policies which may include provisions adverse to the new law. While the statute requires the employer not to “adopt” or “enforce” any policy in violation of the law, employers would be wise to review employment policies entirely to ensure compliance and immediately suspend enforcement of policies in place that contravene the new law.

Employers must balance policies geared toward maintaining a safe workplace with those that may be “perceived” as violating the new law. Interestingly, the law seems to setup a delicate subjective standard for violation—namely, one that “has the effect of prohibiting” by an employee “who believes” that he or she has been harmed by the employer’s violation of the law. Further, the law is likely to be challenged and employers should take notice of these various developments, as the challenges move through the courts.



Casey B. Cox



THE IMPORTANCE OF SURVEYS



In a real estate transaction, there are various critical aspects to the transaction, and one of those is the survey. In a commercial transaction, it is best to have an ALTA survey, which is a survey which has sufficient detail to allow a title company to delete certain survey-related exceptions from the title insurance policy.

I have noticed a recent trend in which buyers of real estate, especially in residential transactions, are not obtaining surveys and are being discouraged from obtaining surveys. This is presumably because of changes in homeowner’s title insurance policies which provide some survey-related coverages with respect to lots in residential subdivisions even without a survey. However, I feel that this is a very dangerous approach.

In a residential transaction, it is not customary to have as detailed of a survey as you would need for a commercial transaction. However, it is important in a residential transaction to have a survey for you to know that the house and other improvements are located on the property that you are purchasing, as opposed to on a neighbor’s property. Also, a survey can show if any of

the neighbors’ improvements encroach onto the property. Surveys are also important to show you the location of easements which may affect the property. A staked survey also has the benefit of giving you an awareness of where your property lines are located.

There are, of course, other benefits that a survey can provide, but given the current trends that we have observed, we would like to remind our clients of the importance of surveys in their real estate transactions.



John B. "Jack" Bentz