

## HOUSE BILL No. 1272

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DIGEST OF HB 1272 (Updated February 2, 1998 5:33 pm - DI 92)

**Citations Affected:** IC 6-1.1; IC 36-1.

**Synopsis:** Provides that the county auditor in Lake County may remove real property from the list of property eligible for tax sale if the taxpayer and the county treasurer agree to a mutually satisfactory arrangement for the payment of the delinquent property taxes in full. Requires the county auditor to reinstate the real property to the list of property eligible for tax sale if the taxpayer misses a payment under the arrangement. Allows the City of Gary to offer real property within its jurisdiction for sale at an expedited second tax sale if the property fails to receive the minimum amount in a county tax sale. Provides for the execution of a tax deed to the City of Gary if the property does sale at the expedited tax sale. Provides for the disposal of real property acquired by the City of Gary. Provides that the City of Gary may not hold a tax sale after March 31, 2001.

**Effective:** See text of bill.

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**V. Smith**

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January 13, 1998, read first time and referred to Committee on Ways and Means.  
January 28, 1998, amended, reported — Do Pass.  
February 2, 1998, read second time, amended, ordered engrossed.

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HB 1272—LS 7064/DI 92



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Reprinted  
February 3, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

## HOUSE BILL No. 1272

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-1.1-24-1.2, AS AMENDED BY P.L.30-1994,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 1.2. (a) **Except as provided in subsection (c)**, a  
4 tract or an item of real property may not be removed from the list  
5 certified under section 1 of this chapter before the tax sale unless all  
6 delinquent taxes, special assessments, penalties due on the  
7 delinquency, interest, and costs directly attributable to the tax sale have  
8 been paid in full.

9 (b) A county treasurer may accept partial payments of delinquent  
10 property taxes, assessments, penalties, interest, or costs under  
11 subsection (a) after the list of real property is certified under section 1  
12 of this chapter.

13 (c) **The county auditor in a county having a population of more**  
14 **than four hundred thousand (400,000) but less than seven hundred**  
15 **thousand (700,000) may remove a tract or an item of real property**  
16 **from the list certified under section 1 of this chapter before the tax**  
17 **sale if the county treasurer and the taxpayer agree to a mutually**

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1 satisfactory arrangement for the payment of the delinquent taxes.

2 (d) The county treasurer may remove the tract or item from the  
3 list certified under section 1 of this chapter if the arrangement  
4 described in subsection (c):

5 (1) is in writing;

6 (2) is signed by the taxpayer; and

7 (3) requires the taxpayer to pay the delinquent taxes in full  
8 within one (1) year of the date the agreement is signed.

9 (e) If the taxpayer fails to make a payment under the  
10 arrangement, the county auditor shall immediately place the tract  
11 or item of real property on the list of real property eligible for sale  
12 at a tax sale.

13 (f) If the tract or item of real property subject to a payment  
14 arrangement is within the jurisdiction of a city having a population  
15 of more than one hundred thousand (100,000) but less than one  
16 hundred twenty thousand (120,000), the county auditor shall notify  
17 the mayor of the city of the arrangement.

18 SECTION 2. IC 6-1.1-24-5.6 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 1998]: **Sec. 5.6. (a) This section applies to a**  
21 **city having a population of more than one hundred ten thousand**  
22 **(110,000) but less than one hundred twenty thousand (120,000).**

23 (b) If:

24 (1) a tract or an item of real property within the jurisdiction  
25 of the city is offered for sale under sections 1 through 5 of this  
26 chapter; and

27 (2) an amount is not received that is at least equal to the  
28 minimum sale price required under section 5(e) of this  
29 chapter;

30 the tract or an item of real property may be offered for sale a  
31 second time consistent with the provisions of sections 1 through 5  
32 of this chapter or subsection (c).

33 (c) Notwithstanding any other law, if:

34 (1) a tract or an item of real property within the jurisdiction  
35 of the city is offered for sale under sections 1 through 5 of this  
36 chapter;

37 (2) an amount is not received that is at least equal to the  
38 minimum sale price required under section 5(e) of this  
39 chapter; and

40 (3) the county auditor and the mayor of the city jointly agree  
41 to an expedited tax sale under this subsection;

42 the city may offer the tract or item of real property for sale a

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1 second time on a date that is on or after January 1 and before  
 2 March 31 of the year immediately following the year in which the  
 3 property was initially offered for sale and at least ninety (90) days  
 4 after the date of the initial sale.

5 (d) All notice and judgment requirements set forth in this  
 6 chapter and IC 6-1.1-25 are applicable to the second expedited tax  
 7 sale under subsection (c).

8 (f) If the city offers a tract or item of real property for sale at an  
 9 expedited sale under subsection (c), the county may not offer the  
 10 tract or item of real property for sale under section 5.5 of this  
 11 chapter.

12 (g) This section expires June 30, 2001.

13 SECTION 3. IC 6-1.1-24-6.6 IS ADDED TO THE INDIANA  
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 1998]: **Sec. 6.6. (a) This section applies to a**  
 16 **city having a population of more than one hundred ten thousand**  
 17 **(110,000) but less than one hundred twenty thousand (120,000).**

18 (b) When a tract or an item of real property is offered for sale  
 19 under section 5.6 of this chapter and an amount is not received  
 20 equal to or in excess of the minimum sale price prescribed in  
 21 section 5(e) of this chapter, the city acquires a lien in the amount  
 22 of the minimum sale price. This lien attaches on the day after the  
 23 last date on which the tract or item was offered for sale under  
 24 section 5.6 of this chapter.

25 (c) When a city acquires a lien under this section, the county  
 26 auditor shall issue a tax sale certificate to the city in the manner  
 27 provided in section 9 of this chapter. The county auditor shall date  
 28 the certificate the day that the city acquires the lien. When a city  
 29 acquires a certificate under this section, the city has the same  
 30 rights as a purchaser. However, the city shall hold the property for  
 31 the taxing units described in subsection (d).

32 (d) When a lien is acquired by the city under this section, no  
 33 money shall be paid by the city. However, each of the taxing units  
 34 having an interest in the taxes on the tract shall be credited with  
 35 the full amount of all delinquent taxes due them.

36 (e) This section expires June 30, 2001.

37 SECTION 4. IC 6-1.1-24-9, AS AMENDED BY P.L.56-1996,  
 38 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 1998]: **Sec. 9. (a) Immediately after a tax sale purchaser pays**  
 40 **his bid, as evidenced by the receipt of the county treasurer, or**  
 41 **immediately after the county acquires a lien under section 6 of this**  
 42 **chapter or a city acquires a lien under section 6.6 of this chapter,**



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1 the county auditor shall deliver a certificate of sale to the purchaser or  
 2 to the county **or to the city**. The certificate shall be signed by the  
 3 auditor and registered in his office. The certificate shall contain:

- 4 (1) a description of real property which corresponds to the  
 5 description used on the notice of sale;  
 6 (2) the name of the former owner, if known;  
 7 (3) the name of the purchaser;  
 8 (4) the date of sale;  
 9 (5) the amount for which the real property was sold;  
 10 (6) the amount of the minimum bid for which the tract or real  
 11 property was offered at the time of sale as required by section 5  
 12 of this chapter; and  
 13 (7) the date when the purchaser is first entitled to request a deed  
 14 to the property.

15 (b) When a certificate of sale is issued under this section, the  
 16 purchaser acquires a lien against the real property for the entire amount  
 17 that he paid. The lien of the purchaser is superior to all liens against the  
 18 real property which exist at the time the certificate is issued.

19 (c) A certificate of sale is assignable. However, an assignment is not  
 20 valid unless it is endorsed on the certificate of sale, acknowledged  
 21 before an officer authorized to take acknowledgments of deeds, and  
 22 registered in the office of the county auditor. When a certificate of sale  
 23 is assigned, the assignee acquires the same rights and obligations that  
 24 the original purchaser acquired.

25 SECTION 5. IC 6-1.1-25-4.2 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 1998]: **Sec. 4.2. (a) This section applies to a**  
 28 **city having a population of more than one hundred ten thousand**  
 29 **(110,000) but less than one hundred twenty thousand (120,000)**

30 (b) **If a certificate of sale is issued to a purchaser under**  
 31 **IC 6-1.1-24-9 and the real property is not redeemed within one**  
 32 **hundred twenty (120) days after the date of sale under**  
 33 **IC 6-1.1-24-5.6(b), as extended by compliance with the notice**  
 34 **provisions in section 4.5 of this chapter, the county auditor shall,**  
 35 **upon receipt of the certificate and subject to the limitations**  
 36 **contained in this chapter, execute and deliver a deed for the**  
 37 **property to the purchaser.**

38 (c) **If a certificate of sale is issued to the city under**  
 39 **IC 6-1.1-24-9, and the real property is not redeemed within one**  
 40 **hundred twenty (120) days after the date of the sale, the county**  
 41 **auditor shall, upon receipt of the certificate and subject to the**  
 42 **limitations in this chapter, issue a deed for the property to the city.**



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1           (d) The county auditor shall execute deeds issued under this  
2 section in the name of the state under the county auditor's name  
3 and seal. If a certificate of sale is lost before the execution of a  
4 deed, the county auditor shall, subject to the limitations in this  
5 chapter, execute and deliver a deed if the court has made a finding  
6 that the certificate did exist.

7           (e) When a deed for real property is executed under this section,  
8 the county auditor shall cancel the certificate of sale and file the  
9 canceled certificate in the office of the county auditor.

10           (f) When a deed is issued to the city under this section, the taxes  
11 and special assessments for which the real property was offered for  
12 sale, and all subsequent taxes, special assessments, interest,  
13 penalties, and costs of sale shall be removed from the tax duplicate  
14 in the same manner that taxes are removed by certificate of error.

15           (g) A tax deed executed under this section vests in the grantee an  
16 estate in fee simple absolute, free and clear of all liens and  
17 encumbrances created or suffered before or after the tax sale  
18 except those liens granted priority under federal law and the lien  
19 of the state or a political subdivision for taxes and special  
20 assessments that accrue subsequent to the sale and that are not  
21 removed under subsection (f). However, the estate is subject to all  
22 easements, covenants, declarations, and other deed restrictions and  
23 laws governing land use, including all zoning restrictions and liens  
24 and encumbrances created or suffered by the purchaser at the tax  
25 sale. The deed is prima facie evidence of:

- 26           (1) the regularity of the sale of the real property described in  
27 the deed;  
28           (2) the regularity of all proper proceedings; and  
29           (3) valid title in fee simple in the grantee of the deed.

30           (h) Notwithstanding the provisions of subsection (c), a county  
31 auditor is not required to execute a deed to the city under  
32 subsection (c) if the mayor determines that the property involved  
33 contains hazardous waste or another environmental hazard for  
34 which the cost of abatement or alleviation will exceed the fair  
35 market value of the property.

36           (i) This section expires September 30, 2001.

37           SECTION 6. IC 6-1.1-25-5.5 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.5. (a) The deed given  
39 by the county auditor to a county which acquired property under  
40 IC 6-1.1-24-6, or to a city agency which acquired property under  
41 IC 36-7-17, shall be in a form prescribed by the state board of accounts  
42 and approved by the attorney general.



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1           **(b) The deed given by the county auditor to a city that acquires**  
 2 **property under IC 6-1.1-24-6.6 must be in a form prescribed by the**  
 3 **state board of accounts and approved by the attorney general.**

4           SECTION 7. IC 6-1.1-25-7, AS AMENDED BY P.L.2-1995,  
 5 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 1998]: Sec. 7. (a) The holder of a certificate of sale, or his  
 7 successors or assigns, shall have the county auditor execute a deed to  
 8 the real property within two (2) years after the date of the sale. If the  
 9 purchaser, or his successors or assigns, fails to have the county auditor  
 10 execute a deed within that time period, the purchaser's lien against the  
 11 real property terminates at the end of the time period. However, this  
 12 section does not apply if the county **or city** is the holder of the  
 13 certificate of sale.

14           (b) If the purchaser does not provide notice prior to the expiration  
 15 of the period of redemption as specified in IC 6-1.1-25-4.5, the  
 16 purchaser's lien against the real property terminates thirty-one (31) days  
 17 after the expiration of the redemption period.

18           SECTION 8. IC 6-1.1-25-9.5 IS ADDED TO THE INDIANA  
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 1998]: **Sec. 9.5. (a) This section applies to a**  
 21 **city having a population of more than one hundred ten thousand**  
 22 **(110,000) but less than one hundred twenty thousand (120,000).**

23           **(b) Whenever a city acquires title to real property under**  
 24 **IC 6-1.1-24 and this chapter, the city may dispose of the real**  
 25 **property under IC 36-1-11 or subsection (f). The proceeds of a sale**  
 26 **under IC 36-1-11 must be applied as follows:**

27           **(1) First, to the cost of the sale, including the cost of**  
 28 **maintenance, preservation, and administration of the**  
 29 **property before sale, including prior unpaid costs of sales,**  
 30 **preparation of the property for sale, advertising, and**  
 31 **appraisal.**

32           **(2) Second, to the payment of the taxes that were removed**  
 33 **from the tax duplicate under section 4.2(f) of this chapter.**

34           **(3) Third, any surplus remaining must be deposited in the**  
 35 **city's general fund.**

36           **(c) The mayor or the mayor's designee shall file a report with**  
 37 **the county board of commissioners before January 31. The report**  
 38 **must:**

39           **(1) list the real property acquired under IC 6-1.1-24 and this**  
 40 **chapter; and**

41           **(2) indicate if a person resides or conducts a business on the**  
 42 **property.**



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1           **(d) The city shall mail a notice by certified mail before March 31**  
 2 **of each year to each person listed in subsection (c)(2). The notice**  
 3 **must state that the city has acquired title to the tract the person**  
 4 **occupies.**

5           **(e) If the city determines under IC 36-1-11 that real property**  
 6 **acquired under IC 6-1.1-24 or this chapter must be retained by the**  
 7 **city, the city may not dispose of the real property. The mayor or**  
 8 **the mayor's designee may repair, maintain, equip, alter, and**  
 9 **construct buildings upon the real property retained under this**  
 10 **section in the same manner prescribed for other city buildings.**

11           **(f) The city may transfer title to real property described in**  
 12 **subsection (b) to its redevelopment commission at no cost to the**  
 13 **commission for sale or grant under IC 36-7-14-22.1. However, the**  
 14 **city may not transfer title to real property under this subsection**  
 15 **unless the city fiscal body approves the transfer under**  
 16 **IC 36-1-11-3.**

17           **(g) This section expires December 31, 2001.**

18           SECTION 9. IC 36-1-11-3, AS AMENDED BY P.L.82-1995,  
 19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 1998]: Sec. 3. (a) This section does not apply to the disposal  
 21 of real property under section 5, 5.5, or 8 of this chapter.

22           (b) Disposal of real property under this chapter is subject to the  
 23 approval of:

- 24           (1) the executive of the political subdivision or agency; or  
 25           (2) the fiscal body of the political subdivision or agency, if there  
 26           is no executive.

27           The executive or fiscal body may not approve a disposal of property  
 28 without conducting a public hearing after giving notice under IC 5-3-1.  
 29 However, in a municipality the executive shall designate a board or  
 30 commission of the municipality to give notice, conduct the hearing, and  
 31 notify the executive of its recommendation.

32           (c) In addition, the fiscal body of a unit must approve:

- 33           (1) every sale of real property having an appraised value of fifty  
 34 thousand dollars (\$50,000) or more;  
 35           (2) every lease of real property for which the total annual rental  
 36 payments will be twenty-five thousand dollars (\$25,000) or more;  
 37 and  
 38           (3) every transfer of real property under section 14 or 15 of this  
 39 chapter.

40           **(d) Notwithstanding subsection (c), the fiscal body of a city**  
 41 **having a population of more than one hundred ten thousand**  
 42 **(110,000) but less than one hundred twenty thousand (120,000)**



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- 1     **must approve:**
- 2         **(1) every sale of real property having an appraised value of**
- 3         **ten thousand dollars (\$10,000) or more;**
- 4         **(2) every lease of real property for which the total annual**
- 5         **rental payments will be five thousand dollars (\$5,000) or**
- 6         **more;**
- 7         **(3) every transfer of real property under section 14 or 15 of**
- 8         **this chapter; and**
- 9         **(4) every transfer of real property under IC 36-7-14-22.1.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1272, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to House Bill 1272 as introduced.)

BAUER, Chair

Committee Vote: yeas 14, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1272 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

(Reference is to House Bill 1272 as printed January 29, 1998.)

V. SMITH

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