

HOUSE BILL No. 1272

DIGEST OF HB 1272 (Updated February 3, 1998 7:36 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
(Continued next page)

Effective: See text of bill.

V. Smith

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.
February 3, 1998, engrossed. Read third time, made special order of business for 7:00 p.m.
Reread third time, recommitted to a Committee of One, amended; passed: yeas 63, nays 36.

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Digest Continued

acquired by the City of Gary. Provides that the City of Gary may not hold a tax sale after March 31, 2001. Allows the City of East Chicago 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 East Chicago if the property does not sell at the expedited tax sale. Provides for the disposal of real property acquired by the City of East Chicago. Provides that the City of East Chicago may not hold a tax sale after March 31, 2001.

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Reprinted
February 4, 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**

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1 from the list certified under section 1 of this chapter before the tax
 2 sale if the county treasurer and the taxpayer agree to a mutually
 3 satisfactory arrangement for the payment of the delinquent taxes.

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

7 (1) is in writing;

8 (2) is signed by the taxpayer; and

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

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

15 (f) If the tract or item of real property subject to a payment
 16 arrangement is within the jurisdiction of a:

17 (1) city having a population of more than one hundred
 18 thousand (100,000) but less than one hundred twenty
 19 thousand (120,000); or

20 (2) city having a population of more than thirty-three
 21 thousand eight hundred fifty (33,850) but less than thirty-five
 22 thousand (35,000);

23 the county auditor shall notify the mayor of the city of the
 24 arrangement.

25 SECTION 2. IC 6-1.1-24-5.6 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 1998]: Sec. 5.6. (a) This section applies to:

28 (1) a city having a population of more than one hundred ten
 29 thousand (110,000) but less than one hundred twenty
 30 thousand (120,000); and

31 (2) a city having a population of more than thirty-three
 32 thousand eight hundred fifty (33,850) but less than thirty-five
 33 thousand (35,000).

34 (b) If:

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

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

41 the tract or an item of real property may be offered for sale a
 42 second time consistent with the provisions of sections 1 through 5



1 of this chapter or subsection (c).

2 (c) Notwithstanding any other law, if:

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

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

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

11 the city may offer the tract or item of real property for sale a
12 second time on a date that is on or after January 1 and before
13 March 31 of the year immediately following the year in which the
14 property was initially offered for sale and at least ninety (90) days
15 after the date of the initial sale.

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

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

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

24 SECTION 3. IC 6-1.1-24-6.6 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 1998]: Sec. 6.6. (a) This section applies to:

27 (1) a city having a population of more than one hundred ten
28 thousand (110,000) but less than one hundred twenty
29 thousand (120,000); and

30 (2) a city having a population of more than thirty-three
31 thousand eight hundred fifty (33,850) but less than thirty-five
32 thousand (35,000).

33 (b) When a tract or an item of real property is offered for sale
34 under section 5.6 of this chapter and an amount is not received
35 equal to or in excess of the minimum sale price prescribed in
36 section 5(e) of this chapter, the city acquires a lien in the amount
37 of the minimum sale price. This lien attaches on the day after the
38 last date on which the tract or item was offered for sale under
39 section 5.6 of this chapter.

40 (c) When a city acquires a lien under this section, the county
41 auditor shall issue a tax sale certificate to the city in the manner
42 provided in section 9 of this chapter. The county auditor shall date



1 the certificate the day that the city acquires the lien. When a city
 2 acquires a certificate under this section, the city has the same
 3 rights as a purchaser. However, the city shall hold the property for
 4 the taxing units described in subsection (d).

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

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

10 SECTION 4. IC 6-1.1-24-9, AS AMENDED BY P.L.56-1996,
 11 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 1998]: Sec. 9. (a) Immediately after a tax sale purchaser pays
 13 his bid, as evidenced by the receipt of the county treasurer, or
 14 immediately after the county acquires a lien under section 6 of this
 15 chapter **or a city acquires a lien under section 6.6 of this chapter**,
 16 the county auditor shall deliver a certificate of sale to the purchaser or
 17 to the county **or to the city**. The certificate shall be signed by the
 18 auditor and registered in his office. The certificate shall contain:

- 19 (1) a description of real property which corresponds to the
 20 description used on the notice of sale;
- 21 (2) the name of the former owner, if known;
- 22 (3) the name of the purchaser;
- 23 (4) the date of sale;
- 24 (5) the amount for which the real property was sold;
- 25 (6) the amount of the minimum bid for which the tract or real
 26 property was offered at the time of sale as required by section 5
 27 of this chapter; and
- 28 (7) the date when the purchaser is first entitled to request a deed
 29 to the property.

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

34 (c) A certificate of sale is assignable. However, an assignment is not
 35 valid unless it is endorsed on the certificate of sale, acknowledged
 36 before an officer authorized to take acknowledgments of deeds, and
 37 registered in the office of the county auditor. When a certificate of sale
 38 is assigned, the assignee acquires the same rights and obligations that
 39 the original purchaser acquired.

40 SECTION 5. IC 6-1.1-25-4.2 IS ADDED TO THE INDIANA
 41 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 1998]: **Sec. 4.2. (a) This section applies to:**



1 (1) a city having a population of more than one hundred ten
 2 thousand (110,000) but less than one hundred twenty
 3 thousand (120,000); and

4 (2) a city having a population of more than thirty-three
 5 thousand eight hundred fifty (33,850) but less than thirty-five
 6 thousand (35,000).

7 (b) If a certificate of sale is issued to a purchaser under
 8 IC 6-1.1-24-9 and the real property is not redeemed within one
 9 hundred twenty (120) days after the date of sale under
 10 IC 6-1.1-24-5.6(b), as extended by compliance with the notice
 11 provisions in section 4.5 of this chapter, the county auditor shall,
 12 upon receipt of the certificate and subject to the limitations
 13 contained in this chapter, execute and deliver a deed for the
 14 property to the purchaser.

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

20 (d) The county auditor shall execute deeds issued under this
 21 section in the name of the state under the county auditor's name
 22 and seal. If a certificate of sale is lost before the execution of a
 23 deed, the county auditor shall, subject to the limitations in this
 24 chapter, execute and deliver a deed if the court has made a finding
 25 that the certificate did exist.

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

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

34 (g) A tax deed executed under this section vests in the grantee an
 35 estate in fee simple absolute, free and clear of all liens and
 36 encumbrances created or suffered before or after the tax sale
 37 except those liens granted priority under federal law and the lien
 38 of the state or a political subdivision for taxes and special
 39 assessments that accrue subsequent to the sale and that are not
 40 removed under subsection (f). However, the estate is subject to all
 41 easements, covenants, declarations, and other deed restrictions and
 42 laws governing land use, including all zoning restrictions and liens



1 **and encumbrances created or suffered by the purchaser at the tax**
 2 **sale. The deed is prima facie evidence of:**

- 3 (1) **the regularity of the sale of the real property described in**
 4 **the deed;**
 5 (2) **the regularity of all proper proceedings; and**
 6 (3) **valid title in fee simple in the grantee of the deed.**

7 (h) **Notwithstanding the provisions of subsection (c), a county**
 8 **auditor is not required to execute a deed to the city under**
 9 **subsection (c) if the mayor determines that the property involved**
 10 **contains hazardous waste or another environmental hazard for**
 11 **which the cost of abatement or alleviation will exceed the fair**
 12 **market value of the property.**

13 (i) **This section expires September 30, 2001.**

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

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

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

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

37 SECTION 8. IC 6-1.1-25-9.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 1998]: Sec. 9.5. (a) **This section applies to:**

- 40 (1) **a city having a population of more than one hundred ten**
 41 **thousand (110,000) but less than one hundred twenty**
 42 **thousand (120,000); and**



1 (2) a city having a population of more than thirty-three
2 thousand eight hundred fifty (33,850) but less than thirty-five
3 thousand (35,000).

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

8 (1) First, to the cost of the sale, including the cost of
9 maintenance, preservation, and administration of the
10 property before sale, including prior unpaid costs of sales,
11 preparation of the property for sale, advertising, and
12 appraisal.

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

15 (3) Third, any surplus remaining must be deposited in the
16 city's general fund.

17 (c) The mayor or the mayor's designee shall file a report with
18 the county board of commissioners before January 31. The report
19 must:

20 (1) list the real property acquired under IC 6-1.1-24 and this
21 chapter; and

22 (2) indicate if a person resides or conducts a business on the
23 property.

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

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

34 (f) The city may transfer title to real property described in
35 subsection (b) to its redevelopment commission at no cost to the
36 commission for sale or grant under IC 36-7-14-22.1.

37 (g) This section expires December 31, 2001.

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

42 (b) Disposal of real property under this chapter is subject to the



1 approval of:

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

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

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

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

18 **(d) Notwithstanding subsection (c), the fiscal body of a city**
 19 **having a population of more than one hundred ten thousand**
 20 **(110,000) but less than one hundred twenty thousand (120,000)**
 21 **must approve:**

- 22 (1) every sale of real property having an appraised value of
 23 ten thousand dollars (\$10,000) or more;
 24 (2) every lease of real property for which the total annual
 25 rental payments will be five thousand dollars (\$5,000) or
 26 more; and
 27 (3) every transfer of real property under section 14 or 15 of
 28 this chapter.

29 **(e) Notwithstanding subsection (c), the fiscal body of a city**
 30 **having a population of more than thirty-three thousand eight**
 31 **hundred fifty (33,850) but less than thirty-five thousand (35,000)**
 32 **must approve:**

- 33 (1) every sale of real property having an appraised value of
 34 ten thousand dollars (\$10,000) or more;
 35 (2) every lease of real property for which the total annual
 36 rental payments will be five thousand dollars (\$5,000) or
 37 more; and
 38 (3) every transfer of real property under section 14 or 15 of
 39 this chapter.



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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HOUSE MOTION

Mr. Speaker: I move that House Bill 1272 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

(Reference is to House Bill 1272 as reprinted February 3, 1998.)

V. SMITH

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1272, begs leave to report that said bill has been amended as directed.

V. SMITH

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