

SENATE BILL No. 394

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-24; IC 6-1.1-25.

Synopsis: Tax sales in Lake County. Provides that a property with delinquent taxes for the current year is eligible for a tax sale. Provides that Lake County may hold tax sales at any time throughout the year. (Current law permits a county to hold tax sales between August 1 and November 1.) Allows the City of Gary to hold tax sales of properties within the city's jurisdiction that have delinquent taxes and are eligible for tax sale. Provides for the execution of tax deeds to Lake County and the City of Gary.

Effective: July 1, 1998.

Rogers

January 9, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

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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.

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SENATE BILL No. 394



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 6-1.1-24-1.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 1998]: **Sec. 1.1. (a) This section applies to a**
4 **county having a population of more than four hundred thousand**
5 **(400,000) but less than seven hundred thousand (700,000) to allow**
6 **greater flexibility in the handling of properties with delinquent**
7 **taxes eligible for tax sale.**

8 (b) At any time the county treasurer may certify to the county
9 auditor a comprehensive list or partial lists of properties on which
10 any of the following exist:

- 11 (1) The spring installment of taxes of that year or a prior year
12 are delinquent as determined under IC 6-1.1-37-10.
- 13 (2) The fall installment of taxes of that year or a prior year
14 are delinquent as determined under IC 6-1.1-37-10.
- 15 (3) Special assessments from either the spring or fall
16 installment of taxes of that year or a prior year are unpaid.
- 17 (4) Costs due under section 2(b) of this chapter from a prior



- 1 tax sale are unpaid.
- 2 (c) By July 1, the county treasurer shall certify to the county
- 3 auditor a list that must include all real properties on which any of
- 4 the following exist:
- 5 (1) The spring installment of taxes of the prior year are
- 6 delinquent as determined under IC 6-1.1-37-10.
- 7 (2) The fall installment of taxes of the prior year are
- 8 delinquent as determined under IC 6-1.1-37-10.
- 9 (3) Special assessments from either the spring or fall
- 10 installment of taxes of the prior year or before are unpaid.
- 11 (4) Costs due under section 2(b) of this chapter from a prior
- 12 tax sale are unpaid.
- 13 (d) All properties listed under subsection (b) or (c) are eligible
- 14 for sale under this chapter.
- 15 (e) The county auditor shall maintain a list of all real property
- 16 eligible for sale. Unless the taxpayer pays to the county treasurer
- 17 the amounts in subsection (b) or (c), the taxpayer's property shall
- 18 remain on the list.
- 19 (f) Except as otherwise provided in this chapter, the real
- 20 property described in this section is eligible for sale in the manner
- 21 prescribed in this chapter.
- 22 SECTION 2. IC 6-1.1-24-1.2, AS AMENDED BY P.L.30-1994,
- 23 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 1998]: Sec. 1.2. (a) A tract or an item of real property may not
- 25 be removed from the list certified under section 1 or section 1.1 of this
- 26 chapter before the tax sale unless all delinquent taxes, special
- 27 assessments, penalties due on the delinquency, interest, and costs
- 28 directly attributable to the tax sale have been paid in full.
- 29 (b) A county treasurer may accept partial payments of delinquent
- 30 property taxes, assessments, penalties, interest, or costs under
- 31 subsection (a) after the list of real property is certified under section 1
- 32 or section 1.1 of this chapter.
- 33 SECTION 3. IC 6-1.1-24-1.3 IS ADDED TO THE INDIANA
- 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 35 [EFFECTIVE JULY 1, 1998]: Sec. 1.3. (a) This section applies to a
- 36 city having a population of more than one hundred thousand
- 37 (100,000) but less than one hundred twenty thousand (120,000).
- 38 (b) Within fifteen (15) days after a list of delinquent properties
- 39 prepared under section 1.1 of this chapter is certified to the county
- 40 auditor, the county auditor shall notify the mayor that the list is
- 41 available for inspection. Upon notification, the mayor or the
- 42 mayor's designee may examine the list to determine whether there



1 are properties on the list that are within the city's jurisdiction and
2 may be sold separately by the city.

3 (c) If the mayor or the mayor's designee determines that any of
4 the properties included on the list are within the city's jurisdiction
5 and may be sold separately by the city, the mayor or the mayor's
6 designee shall notify the county auditor that the city wishes to hold
7 its own tax sale of certain properties on the list. The mayor or the
8 mayor's designee shall specifically identify the parcels or tracts
9 that the city wishes to include in its tax sale. The mayor or the
10 mayor's designee shall provide the notice required by this
11 subsection to the county auditor within thirty (30) days after the
12 county auditor notifies the mayor that the tax sale list is available
13 for inspection.

14 (d) Upon receiving notification that the city wishes to hold a tax
15 sale, the county auditor shall authorize the city to hold a tax sale.
16 The county auditor shall also remove the parcels or tracts specified
17 by the city from the list prepared under section 1.1 of this chapter.

18 (e) The city shall place on a tax sale list the parcels or tracts that
19 will be included in the city's tax sale. Except as otherwise provided,
20 the city has the same rights and obligations as the county under
21 IC 6-1.1-24 and IC 6-1.1-25 with respect to the tax sale.

22 SECTION 4. IC 6-1.1-24-2.3 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 1998]: Sec. 2.3. (a) This section applies to a
25 county having a population of more than four hundred thousand
26 (400,000) but less than seven hundred thousand (700,000).

27 (b) In addition to the delinquency lists provided for in section
28 1.1 of this chapter, the county auditor shall prepare a notice. The
29 notice shall contain the following:

30 (1) A list of tracts or real property eligible for sale under this
31 chapter.

32 (2) A statement that the tracts or real property included in the
33 list will be sold at public auction to the highest bidder.

34 (3) A statement that the tracts or real property will not be
35 sold for an amount that is less than the sum of:

36 (A) the delinquent taxes and special assessments on each
37 tract or item of real property;

38 (B) the taxes and special assessments on each tract or item
39 of real property that are due and payable in the year of the
40 sale, regardless of whether they are delinquent;

41 (C) all penalties due on the delinquencies;

42 (D) an amount prescribed by the county auditor that

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- 1 equals the sum of:
- 2 (i) twenty-five dollars (\$25) for postage and publication
- 3 costs; and
- 4 (ii) other actual costs incurred by the county that are
- 5 directly attributable to the tax sale; and
- 6 (E) the unpaid costs due from a prior tax sale.
- 7 (4) A statement that a person redeeming each tract or item of
- 8 real property after the sale must pay an interest charge of ten
- 9 percent (10%) per annum on the amount of taxes and special
- 10 assessments paid by the purchaser on the redeemed property
- 11 after the tax sale.
- 12 (5) A statement, for informational purposes only, of the
- 13 location of each tract or item of real property by key number,
- 14 if any, and street address, if any, or a common description of
- 15 the property other than a legal description. The township
- 16 assessor, upon written request from the county auditor, shall
- 17 provide the information to be in the notice required by this
- 18 subsection. A misstatement in the key number or street
- 19 address does not invalidate an otherwise valid sale.
- 20 (6) A statement of the procedure to be followed for obtaining
- 21 or objecting to a judgment and order of sale that must include
- 22 the following:
- 23 (A) A statement that the county auditor and county
- 24 treasurer shall apply on or after a date designated in the
- 25 notice for a court judgment against the tracts or real
- 26 property for an amount that is at least the amount set
- 27 under subdivision (3) and for an order to sell the tracts or
- 28 real property at public auction to the highest bidder.
- 29 (B) A statement that a defense to the application for
- 30 judgment must be filed with the court before the date
- 31 designated as the earliest date on which the application for
- 32 judgment may be filed.
- 33 (C) A statement that the court will set a date for a hearing
- 34 at least seven (7) days before the advertised date and that
- 35 the court will determine any defenses to the application for
- 36 judgment at the hearing.
- 37 (7) A statement that the sale will be conducted at a place
- 38 designated in the notice and that the sale will continue until all
- 39 tracts and real property have been offered for sale.
- 40 (8) A statement that the sale will take place at the times and
- 41 dates specified in the notice.
- 42 (9) A statement that a person redeeming each tract or item

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1 after the tax sale must pay the costs described in
2 IC 6-1.1-25-2(d).

3 (10) If a county auditor and county treasurer have entered
4 into an agreement under IC 6-1.1-25-4.7, a statement that the
5 county auditor shall perform the duties of the notification and
6 title search under IC 6-1.1-25-4.5 and the notification and
7 petition to the court for the tax deed under IC 6-1.1-25-4.6.

8 (c) If within sixty (60) days before the date of the tax sale the
9 county incurs costs set under subsection (b)(3)(D) and those costs
10 are not paid, the county auditor shall enter the amount of costs that
11 remain unpaid upon the tax duplicate of the property for which the
12 costs were set. The county treasurer shall mail notice of unpaid
13 costs entered upon a tax duplicate under this subsection to the
14 owner of the property identified in the tax duplicate.

15 (d) The amount of unpaid costs entered upon a tax duplicate
16 under subsection (c) must be paid not later than the date upon
17 which the next installment of real estate taxes for the property is
18 due. Unpaid costs entered upon a tax duplicate under subsection (c)
19 are a lien against the property described in the tax duplicate, and
20 amounts remaining unpaid on the date the next installment of real
21 estate taxes is due may be collected in the same manner that
22 delinquent property taxes are collected.

23 (e) Except as stated in section 6.6 of this chapter, the sale may
24 be held on any date as long as the county complies with all of the
25 prerequisites to holding a tax sale specified in IC 6-1.1-24. Multiple
26 tax sales may be held in any one year. However, all properties
27 eligible for tax sale must be placed up for tax sale not later than
28 seventeen (17) months after the taxes first become delinquent.

29 SECTION 5. IC 6-1.1-24-4.5 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.5. (a) **Except as**
31 **provided in subsection (c)**, the county auditor shall also provide those
32 agencies under IC 36-7-17 in that county with a list of tracts or items
33 of real property on which one (1) or more installments of taxes is
34 delinquent by June 15 of the year following the date the delinquency
35 occurred.

36 (b) This subsection applies to a county having a consolidated city.
37 The county auditor shall prepare a list of tracts or items of real
38 properties for which at least one (1) installment of taxes is delinquent
39 at least ten (10) months. The auditor shall submit a copy of this list to
40 the metropolitan development commission no later than one hundred
41 six (106) days prior to the date on which application for judgment and
42 order for sale is made.



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1 (c) This subsection applies to a county having a population of
2 more than four hundred thousand (400,000) but less than seven
3 hundred thousand (700,000). Whenever the county auditor plans
4 to hold a tax sale, the county auditor shall provide a list of the
5 properties to be included in the tax sale to those agencies
6 authorized to purchase property under IC 36-7-17 at least
7 twenty-one (21) days before the earliest date on which application
8 for judgment may be made.

9 SECTION 6. IC 6-1.1-24-6.1 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 1998]: Sec. 6.1. (a) This section applies to a
12 city having a population of more than one hundred ten thousand
13 (110,000) but less than one hundred twenty thousand (120,000).

14 (b) This section applies to properties offered for sale in a tax
15 sale after June 30, 1998, and also to properties offered for sale in
16 a tax sale before July 1, 1998.

17 (c) A city having a population of more than one hundred ten
18 thousand (110,000) but less than one hundred twenty thousand
19 (120,000) may request that the county auditor issue to the city a tax
20 sale certificate for property that is:

- 21 (1) within the city's jurisdiction; and
22 (2) offered for sale in at least one tax sale but does not receive
23 an amount that is at least equal to the minimum sale price
24 required under section 5(e) of this chapter.

25 (d) Upon receiving a request under subsection (c), the auditor
26 shall immediately issue to the city the requested tax sale certificate.
27 The tax sale certificate entitles the city to a lien on the property in
28 the amount of the minimum sale price. In addition, the city
29 acquires the same rights as a purchaser, including the right to sell,
30 assign, or transfer the tax sale certificate to another. However, the
31 city shall hold the property for all of the taxing units with an
32 interest in the taxes on the property.

33 (e) When a tax sale certificate is issued to a city, no money shall
34 be paid by the city.

35 (f) The city may waive all or part of the tax lien on the property,
36 and it may sell, assign, or transfer the tax sale certificate to another
37 for an amount less than the tax lien.

38 SECTION 7. IC 6-1.1-24-6.6 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 1998]: Sec. 6.6. (a) This section applies to a
41 county having a population of more than four hundred thousand
42 (400,000) but less than seven hundred thousand (700,000).



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(b) If:

(1) a tract or an item of real property is offered for sale under sections 1 through 5 of this chapter; and

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

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

(c) Notwithstanding any other law, if:

(1) a tract or an item of real property is offered for sale under sections 1 through 5 of this chapter;

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

(3) the county treasurer and the county auditor jointly agree to an expedited tax sale under this subsection;

the tract or item of real property may be offered for sale a second time on a date that is at least ninety (90) days after the date of the initial sale.

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

SECTION 8. IC 6-1.1-25-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4.2. (a) This section applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) If a certificate of sale is issued to a purchaser under IC 6-1.1-24-9 and the real property is not redeemed within:

(1) one (1) year after the date of sale;

(2) one hundred twenty (120) days after the county acquires a lien on the property under IC 6-1.1-24-6;

(3) one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17; or

(4) one hundred twenty (120) days after the date of sale under IC 6-1.1-24-5.5(b);

as extended by compliance with the notice provisions in section 4.5 of this chapter, the county auditor shall, upon receipt of the certificate and subject to the limitations contained in this chapter, execute and deliver a deed for the property to the purchaser. If a certificate of sale is issued to the county under IC 6-1.1-24-9 and

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1 the real property is not redeemed within one hundred twenty (120)
 2 days after the date of the sale, the county auditor shall, upon
 3 receipt of the certificate and subject to the limitations in this
 4 chapter, issue a deed for the property to the county. If a certificate
 5 of sale is issued to a city under IC 6-1.1-24, and the real property
 6 is not redeemed within one hundred twenty (120) days after the
 7 date of the sale, the county auditor shall, upon receipt of the
 8 certificate and subject to the limitations in this chapter, issue a
 9 deed for the property to the city. The county auditor shall execute
 10 deeds issued under this section in the name of the state under the
 11 county auditor's name and seal. If a certificate of sale is lost before
 12 the execution of a deed, the county auditor shall, subject to the
 13 limitations in this chapter, execute and deliver a deed if the court
 14 has made a finding that the certificate did exist.

15 (c) When a deed for real property is executed under this section,
 16 the county auditor shall cancel the certificate of sale and file the
 17 canceled certificate in the office of the county auditor.

18 (d) When a deed is issued to either the county or a city under
 19 this section, the taxes and special assessments for which the real
 20 property was offered for sale, and all subsequent taxes, special
 21 assessments, interest, penalties, and costs of sale shall be removed
 22 from the tax duplicate in the same manner that taxes are removed
 23 by certificate of error.

24 (e) A tax deed executed under this section vests in the grantee an
 25 estate in fee simple absolute, free and clear of all liens and
 26 encumbrances created or suffered before or after the tax sale
 27 except those liens granted priority under federal law and the lien
 28 of the state or a political subdivision for taxes and special
 29 assessments that accrue subsequent to the sale and that are not
 30 removed under subsection (d). However, the estate is subject to all
 31 easements, covenants, declarations, and other deed restrictions and
 32 laws governing land use, including all zoning restrictions and liens
 33 and encumbrances created or suffered by the purchaser at the tax
 34 sale. The deed is prima facie evidence of:

- 35 (1) the regularity of the sale of the real property described in
 36 the deed;
- 37 (2) the regularity of all proper proceedings; and
- 38 (3) valid title in fee simple in the grantee of the deed.

39 (f) Notwithstanding the provisions of subsection (b), a county
 40 auditor is not required to execute a deed to the county under
 41 subsection (b) if the county executive determines that the property
 42 involved contains hazardous waste or another environmental



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1 **hazard for which the cost of abatement or alleviation will exceed**
 2 **the fair market value of the property.**

3 **(g) If the county executive makes the determination under**
 4 **subsection (f) as to any interest in an oil or gas lease or separate**
 5 **mineral rights, the county treasurer shall certify all delinquent**
 6 **taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to**
 7 **the clerk, following the procedures in IC 6-1.1-23-9. After the date**
 8 **of the county treasurer's certification, the certified amount is**
 9 **subject to collection as delinquent personal property taxes under**
 10 **IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.5,**
 11 **the assessed value of the interest under this subsection is zero (0)**
 12 **until production commences.**

13 SECTION 9. IC 6-1.1-25-5.5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.5. (a) The deed given
 15 by the county auditor to a county which acquired property under
 16 IC 6-1.1-24-6, or to a city agency which acquired property under
 17 IC 36-7-17, shall be in a form prescribed by the state board of accounts
 18 and approved by the attorney general.

19 **(b) The deed given by the county auditor to a city that acquires**
 20 **property under IC 6-1.1-24-6.1 must be in a form prescribed by the**
 21 **state board of accounts and approved by the attorney general.**

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

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

36 SECTION 11. IC 6-1.1-25-9.5 IS ADDED TO THE INDIANA
 37 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 38 **[EFFECTIVE JULY 1, 1998]: Sec. 9.5. (a) This section applies to a**
 39 **city having a population of more than one hundred ten thousand**
 40 **(110,000) but less than one hundred twenty thousand (120,000).**

41 **(b) Whenever a city acquires title to real property under**
 42 **IC 6-1.1-24 and this chapter, the city may dispose of the real**



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1 property under IC 36-1-11 or subsection (f). The proceeds of a sale
2 under IC 36-1-11 must be applied as follows:

3 (1) First, to the cost of the sale, including the cost of
4 maintenance, preservation, and administration of the
5 property before sale, including prior unpaid costs of sales,
6 preparation of the property for sale, advertising, and
7 appraisal.

8 (2) Second, to the payment of the taxes that were removed
9 from the tax duplicate under section 4(c) of this chapter.

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

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

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

17 (2) indicate if a person resides or conducts a business on the
18 property.

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

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

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

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