

HOUSE BILL No. 1178

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-20-5; IC 6-7.1; IC 6-8.1-1-1.

Synopsis: Affordable housing fund and transfer tax. Establishes the Indiana affordable housing fund administered by the Indiana housing finance authority for the purpose of providing grants and loans to eligible entities for programs that provide: (1) financial assistance to lower income families for the purchase or lease of housing; or (2) grants or loans for the acquisition, rehabilitation, construction, operation, or insurance of housing for lower income families. Provides that the fund resources that are appropriated must be distributed for the state fiscal year as follows: (1) 25% of the fund resources for urban housing. (2) 25% of the fund resources for rural housing. (3) 25% of the fund for the city housing fund of a consolidated city. (4) 25% of the
(Continued next page)

Effective: July 1, 1999.

Crawford

January 6, 1999, read first time and referred to Committee on Ways and Means.

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Digest Continued

fund for the state low income housing trust fund. Provides that any amounts remaining in the fund for rural housing at the end of the state fiscal year may be carried over to the next state fiscal year and distributed to eligible entities for urban housing. Requires the Indiana housing finance authority to adopt rules and written policies and procedures concerning grant eligibility, the grant application process, loan interest rates, and the disbursement of money from the fund. Establishes the real estate transfer tax on all transfers of a real property interest for valuable consideration. Specifies exemptions from the real estate transfer tax. Establishes the county real estate transfer tax fund. Requires the money collected from the real estate transfer tax to be deposited in the county real estate transfer tax fund. Requires the county auditor to transfer monthly the money collected from the real estate transfer tax to the state treasurer for deposit in the Indiana affordable housing trust fund. Allows the authority to transfer money from the Indiana affordable housing fund to the housing funds of Bloomington and Fort Wayne to be used to provide affordable housing.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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HOUSE BILL No. 1178

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 5-20-5 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]:

- 4 **Chapter 5. Indiana Affordable Housing Fund**
5 **Sec. 1. As used in this chapter, "agency" means the agency or**
6 **other entity that administers the affordable housing program**
7 **under this chapter.**
8 **Sec. 2. As used in this chapter, "authority" means the Indiana**
9 **housing finance authority.**
10 **Sec. 3. As used in this chapter, "eligible entity" refers to a city,**
11 **town, or county.**
12 **Sec. 4. As used in this chapter, "families" has the meaning set**
13 **forth in 42 U.S.C. 1437a(b)(3)(B).**
14 **Sec. 5. As used in this chapter, "fund" means the Indiana**
15 **affordable housing fund established by section 7 of this chapter.**



1 **Sec. 6.** As used in this chapter, "lower income families" has the
2 meaning set forth in IC 5-20-4-5.

3 **Sec. 7.** The Indiana affordable housing fund is established.

4 **Sec. 8.** The purpose of the fund is to provide grants and loans to
5 eligible entities for programs that do any of the following:

6 (1) Provide financial assistance to lower income families for
7 the purchase of affordable housing in the form of grants,
8 loans, and loan guarantees.

9 (2) Provide rent and rent supplements to lower income
10 families.

11 (3) Provide loans or grants for the acquisition, construction,
12 rehabilitation, development, operation, and insurance of
13 affordable housing for lower income families.

14 **Sec. 9.** (a) Except as provided in subsection (b), the authority
15 must distribute the fund as follows:

16 (1) Twenty-five percent (25%) of the fund resources during a
17 state fiscal year shall be provided to eligible entities for rural
18 housing for lower income families.

19 (2) Twenty-five percent (25%) of the fund resources during a
20 state fiscal year shall be provided to eligible entities for urban
21 housing for lower income families.

22 (3) Twenty-five percent (25%) of the fund resources during a
23 state fiscal year shall be distributed to the city housing fund
24 of a consolidated city.

25 (4) Twenty-five percent (25%) of the fund resources shall be
26 distributed to the state treasurer for deposit in the low income
27 housing trust fund established by IC 5-20-5-7.

28 (b) A consolidated city shall use the funds received under this
29 subsection for any of the purposes set forth in this chapter.

30 (c) The distributions from the fund prescribed by subsection
31 (a)(3) and (a)(4) shall be made monthly.

32 (d) Any amounts in the fund designated for rural housing that
33 have not been used at the end of the state fiscal year may be
34 carried over to the next state fiscal year and distributed to eligible
35 entities for urban housing. Any amount carried over to the next
36 state fiscal year may not be included in the fund balance for the
37 next state year for purposes of determining the percentage under
38 subsection (a)(2).

39 **Sec. 10.** The authority shall administer the fund. Costs of
40 administering the fund shall be paid from money in the fund.

41 **Sec. 11.** The fund consists of the following:

42 (1) Amounts transferred to the fund from county real estate

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1 transfer funds under IC 6-7.1-4-3.

2 (2) Appropriations from the general assembly.

3 (3) Gifts and grants to the fund.

4 (4) Investment income earned on the fund's assets.

5 Sec. 12. The treasurer of state shall invest the money in the fund
6 not currently needed to meet the obligations of the fund in the same
7 manner as other public funds may be invested.

8 Sec. 13. Money in the fund at the end of a state fiscal year does
9 not revert to the state general fund.

10 Sec. 14. There is annually appropriated to the authority from
11 the fund an amount sufficient to carry out the purposes of this
12 chapter.

13 Sec. 15. Except as provided in section 18 of this chapter, an
14 eligible entity applying for a program grant from the fund must
15 submit an application to the authority.

16 Sec. 16. An application for a program grant from the fund must
17 include the following:

18 (1) A detailed description of the program.

19 (2) Other information required by the authority.

20 Sec. 17. The authority shall adopt rules under IC 4-22-2 and
21 written policies and procedures necessary to carry out the
22 purposes of this chapter, including the following:

23 (1) Criteria for grant eligibility.

24 (2) Development of an application process.

25 (3) Establishment of a procedure for disbursing loans and
26 grants from the fund.

27 (4) Establishment of a rate of interest for a loan made under
28 this chapter.

29 Sec. 18. (a) This section applies to a city:

30 (1) having a population of more than sixty thousand (60,000)
31 but less than sixty-five thousand (65,000); and

32 (2) having a population of more than one hundred fifty
33 thousand (150,000) but less than five hundred thousand
34 (500,000).

35 (b) The authority may transfer money from the fund to a city's
36 housing fund for any of the purposes set forth in this chapter
37 without requiring the city to submit a grant application.

38 SECTION 2. IC 6-7.1 IS ADDED TO THE INDIANA CODE AS A
39 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
40 1999]:

41 **ARTICLE 7.1. REAL ESTATE TRANSFER TAX**

42 **Chapter 1. Applicability**

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1 **Sec. 1. This article applies to the transfer of a real property**
 2 **interest for valuable consideration.**

3 **Sec 2. This article does not apply to the following:**

4 (1) **An instrument where the value of the consideration is less**
 5 **than one hundred dollars (\$100).**

6 (2) **An instrument that evidences a contract or transfer**
 7 **performed in Indiana that includes land outside Indiana.**

8 (3) **An instrument or writing given as security such as a**
 9 **mortgage or trust deed or any assignment or discharge of**
 10 **security.**

11 (4) **An instrument evidencing a lease, including oil and gas**
 12 **leases, or transfers of leasehold interests.**

13 (5) **An instrument evidencing an interest that is assessable as**
 14 **personal property.**

15 (6) **An instrument evidencing the transfer of rights and**
 16 **interests for underground gas storage purposes.**

17 (7) **An instrument in which the grantor is the United States,**
 18 **the state, any political subdivision or municipality, or an**
 19 **officer acting in the officer's official capacity.**

20 (8) **An instrument given in foreclosure or instead of**
 21 **foreclosure of a loan made, guaranteed, or insured by the**
 22 **United States, the state, a political subdivision, or an officer**
 23 **acting in the officer's official capacity.**

24 (9) **An instrument given to the United States, the state, or an**
 25 **officer as grantee, under the terms, guarantee, or insurance**
 26 **of a loan guaranteed or insured by the grantee.**

27 (10) **A document involving the partition of land between**
 28 **tenants in common, joint tenants, or tenants by the entirety.**

29 (11) **The following conveyances:**

30 (A) **A conveyance between spouses.**

31 (B) **A conveyance from a parent to a natural child,**
 32 **stepchild, or adopted child.**

33 (C) **A conveyance from a grandparent to a natural**
 34 **grandchild, stepgrandchild, or adopted grandchild.**

35 (12) **A judgment or order of a court of record making or**
 36 **ordering a transfer, except when a specific monetary**
 37 **consideration is specified or ordered by the court.**

38 (13) **An instrument used to straighten boundary lines when**
 39 **monetary consideration is not given.**

40 (14) **A quitclaim deed that does not serve as a source of title.**

41 (15) **A land contract in which legal title does not pass to the**
 42 **grantee until the total consideration specified in the contract**

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- 1 has been paid.
 2 (16) An instrument evidencing the transfer of mineral rights
 3 and interests.
 4 (17) An instrument creating a joint tenancy between two (2)
 5 or more persons when at least one (1) of the persons already
 6 owns the property.
 7 (18) An instrument that conveys property or an interest in
 8 property to a receiver, administrator, or trustee in a
 9 bankruptcy or an insolvency proceeding.
 10 (19) A written instrument transferring an interest in property
 11 under a foreclosure of a mortgage including a written
 12 instrument given in lieu of foreclosure of a mortgage. This
 13 exemption does not apply to a subsequent transfer of the
 14 foreclosed property by the entity that foreclosed on the
 15 mortgage.
- 16 **Chapter 2. Definitions**
- 17 **Sec. 1.** The definitions in this chapter apply throughout this
 18 article.
- 19 **Sec. 2.** "Conveyance" means any transfer of a real property
 20 interest for valuable consideration.
- 21 **Sec. 3.** "Conveyance document" means any document, deed,
 22 contract of sale, agreement, judgment, lease that includes the fee
 23 simple estate, or other document presented for recording that
 24 purports to transfer a real property interest for valuable
 25 consideration.
- 26 **Sec. 4.** "Department" refers to the department of state revenue.
- 27 **Sec. 5.** "Fund" refers to the Indiana affordable housing fund
 28 established in IC 5-20-5-7.
- 29 **Sec. 6.** "Tax" means the real estate transfer tax established by
 30 IC 6-7.1-3-1.
- 31 **Chapter 3. General Provisions**
- 32 **Sec. 1.** (a) A real estate transfer tax is established on any
 33 transfer for valuable consideration of real property in a county.
 34 (b) The tax shall be at a rate of twenty cents (\$0.20) for each five
 35 hundred dollars (\$500) of value or fraction of five hundred dollars
 36 (\$500) stated in the real estate transfer form filed under section 6
 37 of this chapter.
- 38 **Sec. 2.** The seller or grantor of a real property interest is liable
 39 for the tax.
- 40 **Sec. 3.** The real estate transfer tax is a listed tax for purposes of
 41 IC 6-8.1.
- 42 **Sec. 4.** (a) When a conveyance document is filed with the county

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1 auditor under IC 6-1.1-5-4, the parties to the conveyance shall file
2 a real estate transfer form prescribed by the department under
3 section 5 of this chapter.

4 (b) A real estate transfer form must be signed by at least one (1)
5 seller to the transaction and at least one (1) buyer to the
6 transaction or by an attorney or an agent for a seller or buyer.

7 **Sec. 5.** The department shall prescribe a real estate transfer
8 form for use under this chapter. The form prescribed by the
9 department must include at least the following information:

- 10 (1) The key number of the parcel (as defined in
- 11 IC 6-1.1-1-8.5).
- 12 (2) Whether the entire parcel is being conveyed.
- 13 (3) The address of the property.
- 14 (4) The date of the execution of the form.
- 15 (5) The date the property was transferred.
- 16 (6) An estimate of any personal property included in the
- 17 transfer.
- 18 (7) The name and address of each transferor and transferee.
- 19 (8) The ownership interest transferred.
- 20 (9) The total consideration actually paid or required to be
- 21 paid in exchange for the conveyance, whether it is money,
- 22 property, a service, an agreement, or other consideration, but
- 23 excluding tax payments and payments for legal and other
- 24 services that are incidental to the conveyance.
- 25 (10) Other information as required by the department to
- 26 carry out this article.

27 **Sec. 6.** The county recorder may not accept a conveyance
28 document for recording unless:

- 29 (1) the real estate transaction form, signed by the parties, is
- 30 included with the document; and
- 31 (2) the tax has been paid to the county auditor.

32 **Sec. 7.** A person who signs a real estate transfer form shall attest
33 in writing and under penalties of perjury that to the best of the
34 person's knowledge and belief the information contained in the real
35 estate transfer form is true and correct.

36 **Sec. 8.** A tax may not be collected under this article for a
37 conveyance document if the conveyance was made under a written
38 executory contract upon which the tax was previously paid.

39 **Chapter 4. County Real Estate Transfer Fund**

40 **Sec. 1.** A county real estate transfer tax fund is established in
41 each county. The fund is administered by the county auditor.

42 **Sec. 2.** The county auditor shall deposit in the county real estate

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1 transfer tax fund the money collected from the real estate transfer
2 tax under this article.

3 **Sec. 3. Each month the county auditor shall transfer the**
4 **amounts collected under this chapter from the county real estate**
5 **transfer fund to the state treasurer for deposit in the Indiana**
6 **affordable housing fund established in IC 5-20-5-7.**

7 **Chapter 5. Penalties**

8 **Sec. 1. A person who knowingly or intentionally:**

9 (1) falsifies the value of transferred real property; or

10 (2) omits or falsifies any information required to be provided
11 in a real estate transfer form under this article;

12 commits a Class C misdemeanor.

13 **Sec. 2. A public official who knowingly or intentionally accepts**
14 **a real estate transfer document for filing in violation of this article**
15 **commits a Class C misdemeanor.**

16 SECTION 3. IC 6-8.1-1-1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. "Listed taxes" or
18 "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through
19 IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat
20 wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1); the state
21 gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC
22 6-3); the supplemental net income tax (IC 6-3-8); the county adjusted
23 gross income tax (IC 6-3.5-1.1); the county option income tax (IC
24 6-3.5-6); the county economic development income tax (IC 6-3.5-7);
25 the auto rental excise tax (IC 6-6-9); the bank tax (IC 6-5-10); the
26 savings and loan association tax (IC 6-5-11); the production credit
27 association tax (IC 6-5-12); the financial institutions tax (IC 6-5.5); the
28 gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1);
29 the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1);
30 a motor fuel tax collected under a reciprocal agreement under
31 IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the hazardous
32 waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer
33 excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine
34 excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the
35 malt excise tax (IC 7.1-4-5); **the real estate transfer tax (IC 6-7.1);**
36 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
37 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
38 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
39 (IC 16-44-2); the emergency and hazardous chemical inventory form
40 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
41 and IC 9-30); the fees and penalties assessed for overweight vehicles
42 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);



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1 the solid waste management fee (IC 13-20-22); and any other tax or fee
2 that the department is required to collect or administer.

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