

# COMMITTEE REPORT

MR. PRESIDENT:

**The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1909, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1           Page 2, between lines 14 and 15, begin a new paragraph and insert:
- 2           "SECTION 2. IC 6-1.1-42-7 IS AMENDED TO READ AS
- 3           FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 7.
- 4           A designating body may, **by resolution**, do the following:
- 5           (1) Impose a fee for filing an application to designate an area as
- 6           a zone or to approve a deduction. The fee may be sufficient to
- 7           defray actual processing and administrative costs associated with
- 8           the application.
- 9           (2) Establish general written standards for declaring an area as a
- 10          zone. ~~or granting a deduction under this chapter.~~ The written
- 11          standards must be reasonably related to accomplishing the
- 12          purposes of this chapter.
- 13          SECTION 3. IC 6-1.1-42-12 IS AMENDED TO READ AS
- 14          FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 12.
- 15          (a) The designating body shall determine whether an area should be
- 16          designated a brownfield revitalization zone.
- 17          (b) A designating body may designate an area as a brownfield
- 18          revitalization zone only if the following findings are made in the
- 19          affirmative:
- 20          (1) The applicant:

1 (A) has never had an ownership interest in an entity that  
2 contributed; and

3 (B) has not contributed;  
4 ~~to contamination a contaminant~~ (as defined in ~~IC 13-11-2-43~~)  
5 **IC 13-11-2-42**) that is the subject of the voluntary remediation,  
6 as determined under the written standards adopted by the  
7 department of environmental management.

8 (2) The area described in section 8 of this chapter qualifies as a  
9 brownfield, as determined under the written standards adopted by  
10 the department of environmental management.

11 (3) The area described in section 8 of this chapter is substantially  
12 under-utilized or nonproductive without remediation.

13 (4) The applicant can successfully obtain a certificate of  
14 completion of a voluntary remediation for the area described in  
15 section 8 of this chapter under IC 13-25-5-16.

16 (5) The estimate of the value of the remediation and  
17 redevelopment is reasonable for projects of that nature.

18 (6) The estimate of the number of individuals who will be  
19 employed or whose employment will be retained can be  
20 reasonably expected to result from the proposed described  
21 remediation and redevelopment.

22 (7) The estimate of the annual salaries of those individuals who  
23 will be employed or whose employment will be retained can be  
24 reasonably expected to result from the proposed described  
25 remediation and redevelopment.

26 (8) Any other benefits about which information was requested are  
27 benefits that can be reasonably expected to result from the  
28 proposed described remediation and redevelopment.

29 (9) The totality of benefits is sufficient to justify the establishment  
30 of a zone.

31 SECTION 4. IC 6-1.1-42-14 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 14.  
33 A person who filed a written remonstrance with the designating body  
34 before the adjournment of the public hearing required under section 11  
35 of this chapter and who is aggrieved by the final action taken may,  
36 within ten (10) days after that final action is taken under section 13 of  
37 this chapter, initiate an appeal of that action by filing in the office of  
38 the clerk of the circuit or superior court a copy of the ~~order of the~~

1 ~~designating body resolution adopted under section 9 of this chapter,~~  
 2 **any modifications made under section 13 of this chapter,** and the  
 3 person's remonstrance against ~~that order; the resolution,~~ together with  
 4 a bond conditioned to pay the costs of the appeal if the appeal is  
 5 determined against the person. The only ground of appeal that the court  
 6 may hear is whether the proposed project will meet the qualifications  
 7 for granting an assessed valuation deduction for the property under this  
 8 chapter. The burden of proof is on the appellant.

9 SECTION 5. IC 6-1.1-42-22 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 22.

11 (a) The designating body shall determine whether to approve a  
 12 deduction.

13 (b) A designating body may not grant a deduction for a facility  
 14 described in IC 6-1.1-12.1-3(e).

15 (c) A property owner may not receive a deduction under this chapter  
 16 for repairs or improvements to real property if the owner receives a  
 17 deduction under either IC 6-1.1-12.1, IC 6-1.1-12-18, IC 6-1.1-12-22,  
 18 or IC 6-1.1-12-28.5 for the same property.

19 (d) A designating body may approve a deduction only if the  
 20 following findings are made in the affirmative:

21 (1) The applicant:

22 (A) has never had an ownership interest in an entity that  
 23 contributed; and

24 (B) has not contributed;

25 ~~to contamination a contaminant~~ (as defined in ~~IC 13-11-2-43~~)  
 26 **IC 13-11-2-42**) that is the subject of the voluntary remediation,  
 27 as determined under the written standards adopted by the  
 28 department of environmental management.

29 (2) The proposed improvement or property will be located in a  
 30 zone.

31 (3) The estimate of the value of the remediation and  
 32 redevelopment is reasonable for projects of that nature.

33 (4) The estimate of the number of individuals who will be  
 34 employed or whose employment will be retained can be  
 35 reasonably expected to result from the proposed described  
 36 remediation and redevelopment.

37 (5) The estimate of the annual salaries of those individuals who  
 38 will be employed or whose employment will be retained can be

1 reasonably expected to result from the proposed described  
2 remediation and redevelopment.

3 (6) Any other benefits about which information was requested are  
4 benefits that can be reasonably expected to result from the  
5 proposed described remediation and redevelopment.

6 (7) The totality of benefits is sufficient to justify the deduction.

7 SECTION 6. IC 6-1.1-42-23 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 23.

9 **With respect to property in a particular brownfield revitalization**  
10 **zone**, the designating body may do the following:

11 (1) Limit the type of ~~deductions that will be allowed~~ **property**  
12 **that is eligible for a deduction** within ~~the~~ **a brownfield**  
13 **revitalization** zone to ~~either the deduction allowed under section~~  
14 ~~24 of this chapter:~~ **personal property or real property.**

15 (2) Limit the dollar amount of the individual or aggregate  
16 deductions that will be allowed with respect to personal property.

17 (3) Limit the dollar amount of the deduction that will be allowed  
18 with respect to real property.

19 (4) Impose reasonable conditions for allowing ~~the~~ **a** deduction for  
20 tangible property under this chapter. The conditions must have a  
21 reasonable relationship to the development objectives of the area  
22 in which the designating body has jurisdiction.

23 To exercise one (1) or more of these powers a designating body must  
24 include this fact in the resolution **creating the brownfield**  
25 **revitalization zone that is** finally passed under section 13 of this  
26 chapter.

27 SECTION 7. IC 6-1.1-42-25 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 25.

29 A person who filed a written remonstrance with the designating body  
30 before the adjournment of the public hearing required in section 21 of  
31 this chapter and who is aggrieved by the final action taken may, within  
32 ten (10) days after that final action under section 24 of this chapter,  
33 initiate an appeal of that action by filing in the office of the clerk of the  
34 circuit or superior court a copy of the ~~order of the designating body~~  
35 **resolution adopted under section 9 of this chapter, any**  
36 **modifications made under section 24 of this chapter**, and the  
37 person's remonstrance against ~~that order;~~ **the resolution**, together with  
38 a bond conditioned to pay the costs of the appeal if the appeal is

1 determined against the person. The only ground of appeal that the court  
 2 may hear is whether the proposed project will meet the qualifications  
 3 for granting an assessed valuation deduction for the property under this  
 4 chapter. The burden of proof is on the appellant.

5 SECTION 8. IC 6-1.1-42-27 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 27.

7 (a) A property owner who desires to obtain the deduction provided by  
 8 section 24 of this chapter must file a certified deduction application, on  
 9 forms prescribed by the state board of tax commissioners, with the  
 10 auditor of the county in which the property is located. Except as  
 11 otherwise provided in subsection (b) or (e), the deduction application  
 12 must be filed before May 10 of the year in which the addition to  
 13 assessed valuation is made.

14 (b) If notice of the addition to assessed valuation or new assessment  
 15 for any year is not given to the property owner before April 10 of that  
 16 year, the deduction application required by this section may be filed not  
 17 later than thirty (30) days after the date such a notice is mailed to the  
 18 property owner at the address shown on the records of the township  
 19 assessor.

20 (c) The **certified** deduction application required by this section must  
 21 contain the following information:

22 (1) The name of each owner of the property.

23 (2) A certificate of completion of a voluntary remediation under  
 24 IC 13-25-5-16.

25 (3) Proof that each owner who is applying for the deduction:

26 (A) has never had an ownership interest in an entity that  
 27 contributed; and

28 (B) has not contributed;

29 ~~to contamination a contaminant~~ (as defined in ~~IC 13-11-2-43~~)  
 30 **IC 13-11-2-42**) that is the subject of the voluntary remediation,  
 31 as determined under the written standards adopted by the  
 32 department of environmental management.

33 (4) Proof that the deduction was approved by the appropriate  
 34 designating body.

35 (5) A description of the property for which a deduction is claimed  
 36 in sufficient detail to afford identification.

37 (6) The assessed value of the improvements before remediation  
 38 and redevelopment.

1 (7) The increase in the assessed value of improvements resulting  
2 from remediation and redevelopment.

3 (8) The amount of the deduction claimed for the first year of the  
4 deduction.

5 (d) A **certified** deduction application filed under subsection (a) or  
6 (b) is applicable for the year in which the addition to assessed value or  
7 assessment of a **new structure property** is made and each subsequent  
8 year to which the deduction applies under the resolution adopted under  
9 section 24 of this chapter.

10 (e) A property owner who desires to obtain the deduction provided  
11 by section 24 of this chapter but who has failed to file a deduction  
12 application within the dates prescribed in subsection (a) or (b) may file  
13 a deduction application between March 1 and May 10 of a subsequent  
14 year which is applicable for the year filed and the subsequent years  
15 without any additional **certified** deduction application being filed for  
16 the amounts of the deduction which would be applicable to such years  
17 under this chapter if such a deduction application had been filed in  
18 accordance with subsection (a) or (b).

19 (f) On verification of the correctness of a **certified** deduction  
20 application by the assessor of the township in which the property is  
21 located, the county auditor shall, if the property is covered by a  
22 resolution adopted under section 24 of this chapter, ~~the county auditor~~  
23 ~~shall~~ make the appropriate deduction.

24 (g) The amount and period of the deduction provided for property  
25 by section 24 of this chapter are not affected by a change in the  
26 ownership of the property if the new owner of the property:

27 (1) is a person that:

28 (A) has never had an ownership interest in an entity that  
29 contributed; and

30 (B) has not contributed;

31 ~~to contamination~~ a **contaminant** (as defined in ~~IC 13-11-2-43~~)  
32 **IC 13-11-2-42**) that is the subject of the voluntary remediation,  
33 as determined under the written standards adopted by the  
34 department of environmental management;

35 (2) continues to use the property in compliance with any  
36 standards established under ~~section~~ **sections 7 and 23** of this  
37 chapter; and

38 (3) files an application in the manner provided by subsection (e).

1 (h) The township assessor shall include a notice of the deadlines for  
 2 filing a deduction application under subsections (a) and (b) with each  
 3 notice to a property owner of an addition to assessed value or of a new  
 4 assessment.

5 SECTION 9. IC 6-1.1-42-28 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]; Sec. 28.

7 (a) Subject to this section, the amount of the deduction which the  
 8 property owner is entitled to receive under this chapter for a particular  
 9 year equals the product of:

10 (1) the increase in the assessed value resulting from the  
 11 remediation and redevelopment in the zone or the location of  
 12 personal property in the zone, **or both**; multiplied by

13 (2) the percentage determined under subsection (b).

14 (b) The percentage to be used in calculating the deduction under  
 15 subsection (a) is as follows:

16 (1) For deductions allowed over a three (3) year period:

17 YEAR OF DEDUCTION	PERCENTAGE
18 1st	100%
19 2nd	66%
20 3rd	33%

21 (2) For deductions allowed over a six (6) year period:

22 YEAR OF DEDUCTION	PERCENTAGE
23 1st	100%
24 2nd	85%
25 3rd	66%
26 4th	50%
27 5th	34%
28 6th	17%

29 (3) For deductions allowed over a ten (10) year period:

30 YEAR OF DEDUCTION	PERCENTAGE
31 1st	100%
32 2nd	95%
33 3rd	80%
34 4th	65%
35 5th	50%
36 6th	40%
37 7th	30%
38 8th	20%

1	9th	10%
2	10th	5%

3 (c) The amount of the deduction determined under subsection (a)  
 4 shall be adjusted in accordance with this subsection in the following  
 5 circumstances:

6 (1) If a general reassessment of real property occurs within the  
 7 particular period of the deduction, the amount determined under  
 8 subsection (a)(1) shall be adjusted to reflect the percentage  
 9 increase or decrease in assessed valuation that resulted from the  
 10 general reassessment.

11 (2) If an appeal of an assessment is approved that results in a  
 12 reduction of the assessed value of the redeveloped or rehabilitated  
 13 property, the amount of any deduction shall be adjusted to reflect  
 14 the percentage decrease that resulted from the appeal.

15 (3) The amount of the deduction may not exceed the limitations  
 16 imposed by the designating body under section 23 of this chapter.

17 (4) The amount of the deduction must be proportionally reduced  
 18 by the proportionate ownership of the property by a person that:

- 19 (A) has an ownership interest in an entity that contributed; or
- 20 (B) has contributed;

21 ~~to contamination a contaminant~~ (as defined in ~~IC 13-11-2-43~~)  
 22 **IC 13-11-2-42**) that is the subject of the voluntary remediation,  
 23 as determined under the written standards adopted by the  
 24 department of environmental management.

25 The state board of tax commissioners shall adopt rules under IC 4-22-2  
 26 to implement this subsection.

27 SECTION 10. IC 6-1.1-42-30 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 30.

29 (a) Within forty-five (45) days after receipt of the information  
 30 described in section 29 of this chapter, the designating body may  
 31 determine whether the property owner has substantially complied with  
 32 the statement of benefits filed under sections 6 and 18 of this chapter.

33 (b) If the designating body determines that the property owner has  
 34 not substantially complied with the statement of benefits and that the  
 35 failure to substantially comply was not caused by factors beyond the  
 36 control of the property owner (such as declines in demand for the  
 37 property owner's products or services), the designating body shall mail  
 38 a written notice to the property owner. The written notice must include

1 the following provisions:

2 (1) An explanation of the reasons for the designating body's  
3 determination.

4 (2) The date, time, and place of a hearing to be conducted by the  
5 designating body for the purpose of further considering the  
6 property owner's compliance with the statement of benefits. The  
7 date of the hearing may not be more than thirty (30) days after the  
8 date on which the notice is mailed.

9 If a notice mailed to a property owner concerns a statement of benefits  
10 approved **for personal property** under section 24 of this chapter, the  
11 designating body shall also mail a copy of the notice to the state board  
12 of tax commissioners.

13 (c) On the date specified in the notice described in subsection  
14 (b)(2), the designating body shall conduct a hearing for the purpose of  
15 further considering the property owner's compliance with the statement  
16 of benefits. Based on the information presented at the hearing by the  
17 property owner and other interested parties, the designating body shall  
18 again determine whether the property owner has made reasonable  
19 efforts to substantially comply with the statement of benefits and  
20 whether any failure to substantially comply was caused by factors  
21 beyond the control of the property owner. If the designating body  
22 determines that the property owner has not made reasonable efforts to  
23 comply with the statement of benefits, the designating body shall adopt  
24 a resolution terminating the property owner's deduction under section  
25 24 of this chapter. If the designating body adopts such a resolution, the  
26 deduction does not apply to the next installment of property taxes owed  
27 by the property owner or to any subsequent installment of property  
28 taxes.

29 (d) If the designating body adopts a resolution terminating a  
30 deduction under subsection (c), the designating body shall immediately  
31 mail a certified copy of the resolution to:

32 (1) the property owner;

33 (2) the county auditor; and

34 (3) the state board of tax commissioners if the deduction was  
35 granted **for personal property** under section 24 of this chapter.

36 The county auditor shall remove the deduction from the tax duplicate  
37 and shall notify the county treasurer of the termination of the  
38 deduction. If the designating body's resolution is adopted after the

1 county treasurer has mailed the statement required by IC 6-1.1-22-8,  
2 the county treasurer shall immediately mail the property owner a  
3 revised statement that reflects the termination of the deduction.

4 (e) A property owner whose deduction is terminated by the  
5 designating body under this section may appeal the designating body's  
6 decision by filing a complaint in the office of the clerk of the circuit or  
7 superior court together with a bond conditioned to pay the costs of the  
8 appeal if the appeal is determined against the property owner. An  
9 appeal under this subsection shall be promptly heard by the court  
10 without a jury and determined within thirty (30) days after the time of  
11 the filing of the appeal. The court shall hear evidence on the appeal and  
12 may confirm the action of the designating body or sustain the appeal.  
13 The judgment of the court is final and conclusive unless an appeal is  
14 taken as in other civil actions.

15 (f) If an appeal under subsection (e) is pending, the taxes resulting  
16 from the termination of the deduction are not due until after the appeal  
17 is finally adjudicated and the termination of the deduction is finally  
18 determined."

19 Page 3, line 26, after "counsel" insert "**if required by the**  
20 **authority.**".

21 Page 3, delete lines 27 through 28.

22 Page 5, after line 11, begin a new paragraph and insert:

23 "SECTION 14. IC 13-23-14-3 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. **(a) Except as**  
25 **provided in subsection (b),** a person who violates:

- 26 (1) a requirement or standard set forth in this article; or  
27 (2) a rule adopted under IC 13-23-1-2 other than a violation  
28 described in section 2 of this chapter;  
29 is subject to a civil penalty of not more than ten thousand dollars  
30 (\$10,000) per underground storage tank for each day of violation.

31 **(b) A person is not subject to the civil penalty described in**  
32 **subsection (a) if:**

- 33 **(1) the violation arose from an underground storage tank that**  
34 **is on a brownfield;**  
35 **(2) the person was not the owner or operator of the**  
36 **underground storage tank when the violation first occurred;**  
37 **(3) the person does not dispense a regulated substance into or**  
38 **from the underground tank:**

- 1           (A) for any purpose other than temporary or permanent
- 2           closure; or
- 3           (B) in violation of any federal, state, or local regulations;
- 4           and
- 5           (4) the underground storage tank is brought into compliance
- 6           with this article not later than one (1) year after the person
- 7           acquired ownership of the property.

8           SECTION 15. [EFFECTIVE UPON PASSAGE] (a) A brownfield  
 9           revitalization zone that was established or a deduction in a  
 10          brownfield revitalization zone that was granted after June 30,  
 11          1997, and before the passage of this act in conformity with  
 12          IC 6-1.1-42, as amended by this act, is legalized and validated to  
 13          the same extent as if the changes in this act had been part of  
 14          P.L.59-1997.

15          (b) A brownfield revitalization zone that was established or a  
 16          deduction in a brownfield revitalization zone that was granted  
 17          after June 30, 1997, and before the passage of this act, in response  
 18          to an applicant that:

- 19           (1) had an ownership interest in an entity that contributed; or
- 20           (2) contributed;
- 21          a contaminant (as defined in IC 13-11-2-42) that is the subject of a
- 22          voluntary remediation under IC 13-25-5 is void to the same extent
- 23          as if this act had been part of P.L.59-1997.

24          SECTION 16. An emergency is declared for this act."  
 25          Renumber all SECTIONS consecutively.  
           (Reference is to HB 1909 as printed February 17, 1999.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 7, Nays 0.

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Gard

Chairperson