



January 26, 2000

HOUSE BILL No. 1314

DIGEST OF HB 1314 (Updated January 25, 2000 4:55 PM - DI 92)

Citations Affected: IC 6-1.1; IC 32-2.

Synopsis: Tax sale surplus fund. Requires a delinquent taxpayer, before transferring property previously sold at a tax sale, to sign a form that discloses the amount of money in the tax sale surplus fund that the taxpayer will forego by transferring the property. Provides that the person who purchases the property from the delinquent taxpayer may not receive the amount of money in the tax sale surplus fund unless the person is named on the disclosure form. Increases the portion of the minimum bid required on a property at a tax sale attributable to postage from \$25 to \$35. Provides that if a taxpayer does not make a request for a property tax refund or credit within 90 days after the decision of the county property tax assessment board of appeals, the state board of tax commissioners, or the Indiana tax court that entitles the taxpayer to the refund or credit because an assessment was decreased, the taxpayer is entitled to interest only until the date that is 90 days after the decision.

Effective: July 1, 2000.

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January 11, 2000, read first time and referred to Committee on Ways and Means.
January 25, 2000, amended, reported — Do Pass.

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January 26, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1314

A BILL FOR AN ACT to amend the Indiana Code concerning property tax sales.

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

- 1 SECTION 1. IC 6-1.1-24-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) In addition to the
3 delinquency list required under section 1 of this chapter, each county
4 auditor shall prepare a notice. The notice shall contain the following:
5 (1) A list of tracts or real property eligible for sale under this
6 chapter.
7 (2) A statement that the tracts or real property included in the list
8 will be sold at public auction to the highest bidder.
9 (3) A statement that the tracts or real property will not be sold for
10 an amount which is less than the sum of:
11 (A) the delinquent taxes and special assessments on each tract
12 or item of real property;
13 (B) the taxes and special assessments on each tract or item of
14 real property that are due and payable in the year of the sale,
15 whether or not they are delinquent;
16 (C) all penalties due on the delinquencies;
17 (D) an amount prescribed by the county auditor that equals the

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

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1 designated in the notice and that the sale will continue until all
2 tracts and real property have been offered for sale.

3 (9) A statement that the sale will take place at the times and dates
4 designated in the notice. Except as provided in section 5.5 of this
5 chapter, the sale must take place on or after August 1 and before
6 November 1 of each year.

7 (10) A statement that a person redeeming each tract or item after
8 the sale must pay the costs described in IC 6-1.1-25-2(d).

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

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

21 (c) The amount of unpaid costs entered upon a tax duplicate under
22 subsection (b) must be paid no later than the date upon which the next
23 installment of real estate taxes for the property is due. Unpaid costs
24 entered upon a tax duplicate under subsection (b) are a lien against the
25 property described in the tax duplicate, and amounts remaining unpaid
26 on the date the next installment of real estate taxes is due may be
27 collected in the same manner that delinquent property taxes are
28 collected.

29 SECTION 2. IC 6-1.1-24-7 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) When real
31 property is sold under this chapter, the purchaser at the sale shall
32 immediately pay the amount of his bid to the county treasurer. The
33 county treasurer shall apply the payment in the following manner:

34 (1) first, to the taxes, special assessments, penalties, and costs
35 described in section 5(e) of this chapter;

36 (2) second, to other delinquent property taxes in the manner
37 provided in IC 6-1.1-23-5(b); and

38 (3) third, to a separate "tax sale surplus fund".

39 (b) **Within thirty (30) days after the date of the tax sale, the**
40 **county auditor shall notify the owner of record on the day of the**
41 **tax sale that the owner's property was sold at the tax sale. The**
42 **notice must be on a form prescribed by the state board of accounts.**



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1 **The county auditor shall send the notice required by this**
 2 **subsection by certified mail. The notice must:**

3 **(1) advise the owner of the owner's right to redeem the**
 4 **property under IC 6-1.1-25;**

5 **(2) state the amount deposited into the tax sale surplus fund**
 6 **under subsection (a); and**

7 **(3) advise the owner of the owner's rights relating to money**
 8 **deposited into the tax sale surplus fund.**

9 **(c) The:**

10 (1) owner of record who is divested of the owner's property by the
 11 issuance of a tax deed to the tax sale purchaser;

12 (2) tax sale purchaser or purchaser's assignee, upon redemption
 13 of the tract or item of real property; or

14 (3) person with a substantial property interest of public record, as
 15 defined in section 1.9 of this chapter and as evidenced by the
 16 issuance of a tax deed to a tax sale purchaser, in a county:

17 (A) having a population of more than two hundred thousand
 18 (200,000) but less than four hundred thousand (400,000);

19 (B) having a consolidated city; or

20 (C) in which the county auditor and the county treasurer have
 21 an agreement under IC 6-1.1-25-4.7;

22 may file a verified claim for money which is deposited in the tax sale
 23 surplus fund. If the claim is approved by the county auditor and the
 24 county treasurer, the county auditor shall issue a warrant to a person
 25 described in subdivisions (1) through (3) for the amount due.

26 **(d) If the person described in subsection (c)(1) acquired the**
 27 **property from a delinquent taxpayer after the property was sold**
 28 **at a tax sale under this chapter, the county auditor may not issue**
 29 **a warrant to the person unless the person is named on a tax sale**
 30 **surplus fund disclosure form filed with the county auditor under**
 31 **IC 32-2-8.**

32 ~~(e)~~ (e) An amount deposited in the tax sale surplus fund shall be
 33 transferred by the county auditor to the county general fund and may
 34 not be disbursed under subsection ~~(b)~~ (c) if it is not claimed within the
 35 three (3) year period after the date of its receipt.

36 ~~(f)~~ (f) If an amount applied to taxes under this section is later paid
 37 out of the county general fund to the purchaser or his successor due to
 38 the invalidity of the sale, all the taxes shall be reinstated and recharged
 39 to the tax duplicate and collected in the same manner as if the property
 40 had not been offered for sale.

41 ~~(e)~~ (g) When a refund is made to any purchaser or his successor by
 42 reason of the invalidity of a sale, the county auditor shall, at the

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1 December settlement immediately following the refund, deduct the
 2 amount of the refund from the gross collections in the taxing district in
 3 which the land lies and shall pay that amount into the county general
 4 fund.

5 SECTION 3. IC 6-1.1-37-11 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) If a taxpayer is
 7 entitled to a property tax refund or credit because an assessment is
 8 decreased, the taxpayer shall also be paid, or credited with, interest on
 9 the excess taxes that he paid at the rate of six percent (6%) per annum.

10 (b) For purposes of this section **and except as provided in**
 11 **subsection (c)**, the interest shall be computed from the date on which
 12 the taxes were paid or due, whichever is later, to the date of the refund
 13 or credit.

14 (c) **This subsection applies if a taxpayer who is entitled to a**
 15 **refund or credit does not make a written request for the refund or**
 16 **credit to the county auditor within ninety (90) days after the final**
 17 **determination of the county property tax assessment board of**
 18 **appeals, the state board of tax commissioners, or the Indiana tax**
 19 **court that entitles the taxpayer to the refund or credit. In the case**
 20 **of a taxpayer described in this subsection, the interest shall be**
 21 **computed from the date on which the taxes were paid or due to the**
 22 **date that is ninety (90) days after the final determination of the**
 23 **county property tax assessment board of appeals, the state board**
 24 **of tax commissioners, or the Indiana tax court.**

25 SECTION 4. IC 32-2-8 IS ADDED TO THE INDIANA CODE AS
 26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2000]:

28 **Chapter 8. Tax Sale Surplus Fund Disclosure**

29 **Sec. 1. This chapter applies to a transfer of property made after**
 30 **June 30, 2000, that transfers ownership of the property from a**
 31 **delinquent taxpayer to another person after the property is sold at**
 32 **a tax sale under IC 6-1.1-24 and before the tax sale purchaser is**
 33 **issued a tax sale deed under IC 6-1.1-25-4.**

34 **Sec. 2. Upon transfer of title of a property sold at a tax sale**
 35 **under IC 6-1.1-24, the grantor and the grantee must sign a tax sale**
 36 **surplus fund disclosure form.**

37 **Sec. 3. A tax sale surplus fund disclosure form must contain the**
 38 **following information:**

- 39 (1) **The name and address of the taxpayer transferring the**
 40 **property.**
 41 (2) **The name and address of the person acquiring the**
 42 **property.**



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- 1 **(3) The date of the transfer.**
- 2 **(4) The purchase price for the transfer.**
- 3 **(5) The date the property was sold at a tax sale under**
- 4 **IC 6-1.1-24.**
- 5 **(6) The amount of the tax sale purchaser's bid that was**
- 6 **deposited into the tax sale surplus fund under IC 6-1.1-24-7.**
- 7 **Sec. 4. If a transfer described in section 1 of this chapter occurs,**
- 8 **the tax sale surplus fund disclosure form must be filed with the**
- 9 **county auditor at the same time a verified claim under**
- 10 **IC 6-1.1-24-7 is filed.**
- 11 **Sec. 5. The county auditor shall stamp the tax sale surplus fund**
- 12 **disclosure form to indicate the county auditor's receipt of the form**
- 13 **and remit the duplicate to the taxpayer.**
- 14 **Sec. 6. The state board of accounts shall prescribe the tax sale**
- 15 **surplus fund disclosure form required by this chapter.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1314, 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:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-24-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) In addition to the delinquency list required under section 1 of this chapter, each county auditor shall prepare a notice. The notice shall contain the following:

- (1) A list of tracts or real property eligible for sale under this chapter.
- (2) A statement that the tracts or real property included in the list will be sold at public auction to the highest bidder.
- (3) A statement that the tracts or real property will not be sold for an amount which is less than the sum of:
 - (A) the delinquent taxes and special assessments on each tract or item of real property;
 - (B) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, whether or not they are delinquent;
 - (C) all penalties due on the delinquencies;
 - (D) an amount prescribed by the county auditor that equals the sum of:
 - (i) ~~twenty-five dollars (\$25)~~ **thirty-five dollars (\$35)** for postage and publication costs; and
 - (ii) any other actual costs incurred by the county that are directly attributable to the tax sale; and
 - (E) any unpaid costs due under subsection (b) from a prior tax sale.
- (4) A statement that a person redeeming each tract or item of real property after the sale must pay an interest charge of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property after the tax sale.
- (5) A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, upon written request from the county auditor, shall provide the information to be in the notice required by this subsection. A misstatement in the key number or street address does not

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invalidate an otherwise valid sale.

(6) A statement indicating:

(A) the name of the owner of each tract or item of real property with a single owner; or

(B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.

(7) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:

(A) A statement that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder.

(B) A statement that any defense to the application for judgment must be filed with the court before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(8) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(9) A statement that the sale will take place at the times and dates designated in the notice. Except as provided in section 5.5 of this chapter, the sale must take place on or after August 1 and before November 1 of each year.

(10) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(d).

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

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax

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duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected."

Page 1, line 11, delete "When a tax deed is issued to a tax sale purchaser or when the" and insert "**Within thirty (30) days after the date of the tax sale, the county auditor shall notify the owner of record on the day of the tax sale that the owner's property was sold at the tax sale. The notice must be on a form prescribed by the state board of accounts. The county auditor shall send the notice required by this subsection by certified mail. The notice must:**

- (1) advise the owner of the owner's right to redeem the property under IC 6-1.1-25;**
- (2) state the amount deposited into the tax sale surplus fund under subsection (a); and**
- (3) advise the owner of the owner's rights relating to money deposited into the tax sale surplus fund."**

Page 1, delete lines 12 through 17.

Page 2, delete lines 1 through 16.

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"(d) If the person described in subsection (c)(1) acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter, the county auditor may not issue a warrant to the person unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under IC 32-2-8."

Page 2, line 34, delete "(d)" and insert "(e)".

Page 2, line 38, delete "(e)" and insert "(f)".

Page 3, line 1, delete "(f)" and insert "(g)".

Page 3, after line 6, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-37-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) If a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer shall also be paid, or credited with, interest on the excess taxes that he paid at the rate of six percent (6%) per annum.

(b) For purposes of this section and except as provided in



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subsection (c), the interest shall be computed from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit.

(c) This subsection applies if a taxpayer who is entitled to a refund or credit does not make a written request for the refund or credit to the county auditor within ninety (90) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, or the Indiana tax court that entitles the taxpayer to the refund or credit. In the case of a taxpayer described in this subsection, the interest shall be computed from the date on which the taxes were paid or due to the date that is ninety (90) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, or the Indiana tax court.

SECTION 4. IC 32-2-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 8. Tax Sale Surplus Fund Disclosure

Sec. 1. This chapter applies to a transfer of property made after June 30, 2000, that transfers ownership of the property from a delinquent taxpayer to another person after the property is sold at a tax sale under IC 6-1.1-24 and before the tax sale purchaser is issued a tax sale deed under IC 6-1.1-25-4.

Sec. 2. Upon transfer of title of a property sold at a tax sale under IC 6-1.1-24, the grantor and the grantee must sign a tax sale surplus fund disclosure form.

Sec. 3. A tax sale surplus fund disclosure form must contain the following information:

- (1) The name and address of the taxpayer transferring the property.**
- (2) The name and address of the person acquiring the property.**
- (3) The date of the transfer.**
- (4) The purchase price for the transfer.**
- (5) The date the property was sold at a tax sale under IC 6-1.1-24.**
- (6) The amount of the tax sale purchaser's bid that was deposited into the tax sale surplus fund under IC 6-1.1-24-7.**

Sec. 4. If a transfer described in section 1 of this chapter occurs, the tax sale surplus fund disclosure form must be filed with the county auditor at the same time a verified claim under IC 6-1.1-24-7 is filed.



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Sec. 5. The county auditor shall stamp the tax sale surplus fund disclosure form to indicate the county auditor's receipt of the form and remit the duplicate to the taxpayer.

Sec. 6. The state board of accounts shall prescribe the tax sale surplus fund disclosure form required by this chapter."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1314 as introduced.)

BAUER, Chair

Committee Vote: yeas 22, nays 0.

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