
SENATE BILL No. 295

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-4.1-10-3; IC 33-17-1-4; IC 34-30-2; IC 36-2-10-24; IC 36-2-11-7.5; IC 36-2-11-16.

Synopsis: State and local government. Revises the procedure for refunding inheritance tax that has been erroneously or illegally collected. Provides that a county clerk is not personally liable for dishonored checks presented for the payment of fees, court ordered payments, or licenses. Provides that a county recorder is not personally liable for dishonored checks presented for the payment of fees. Provides that a county treasurer is not personally liable for an act or omission occurring in connection with the performance of the county treasurer's official duties, except under certain circumstances. Requires that documents submitted to a county recorder must be legible. Repeals statute requiring the county auditor to collect a fee for each assessed value deduction application received from a property taxpayer.

Effective: July 1, 2000.

Lawson C

January 10, 2000, read first time and referred to Committee on Judiciary.

C
O
P
Y



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.

C
O
P
Y

SENATE BILL No. 295



A BILL FOR AN ACT to amend the Indiana Code concerning state and local government.

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

1 SECTION 1. IC 6-4.1-10-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The department
 3 of state revenue shall review each claim for refund and shall enter an
 4 order either approving, partially approving, or disapproving the refund.
 5 If the department either approves or partially approves a claim for
 6 refund, the department shall send a copy of the order to:
 7 (1) the treasurer of the county that collected the tax, if the refund
 8 applies to inheritance tax collected as a result of a resident
 9 decedent's death; ~~or and~~
 10 (2) the treasurer of state. ~~if the refund applies to tax collected by~~
 11 ~~the department.~~
 12 The ~~county or state~~ treasurer as the case may be, ~~of state~~ shall pay the
 13 refund from money which is under his control and which has not
 14 otherwise been appropriated. The ~~county or state~~ treasurer ~~of state~~
 15 shall receive a credit for the ~~county portion of the~~ amount so
 16 refunded, ~~and~~ the county treasurer ~~of the county owing the credit~~
 17 shall ~~claim the credit account for the credit~~ on his ~~the county's~~



1 inheritance tax report for the quarter in which the refund is paid.

2 (b) Within five (5) days after entering an order with respect to a
3 claim for refund filed under section 1 of this chapter, the department
4 shall send a copy of the order to the person who filed the claim.

5 SECTION 2. IC 33-17-1-4 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) As used in this
7 section, "Indiana support enforcement tracking system (ISETS)" refers
8 to the statewide automated system for the collection, disbursement, and
9 distribution of child support payments established by the division of
10 family and children.

11 (b) The clerk may receive funds:

12 (1) in payment of judgments; and

13 (2) ordered to be paid into the court by the judge.

14 (c) Except as provided in ~~subsection~~ **subsections (d) and (g)**, the
15 clerk is liable, with his sureties, on his official bond for all funds
16 received to any person who is entitled to demand and receive those
17 funds from him.

18 (d) The clerk is not personally liable or liable in the clerk's official
19 capacity on the clerk's official bond for funds received if the clerk:

20 (1) through error or in accordance with the best information
21 available to the clerk, disbursed the funds to a person the clerk
22 reasonably believed to be entitled to receive the funds and to
23 comply with a:

24 (A) child support order; or

25 (B) garnishment order;

26 (2) inappropriately disbursed or misapplied child support funds,
27 arising without the knowledge or approval of the clerk, that
28 resulted from:

29 (A) an action by an employee of, or a consultant to, the
30 division of family and children;

31 (B) an ISETS technological error; or

32 (C) information generated by ISETS;

33 (3) disbursed funds that the clerk reasonably believed were
34 available for disbursement but that were not actually available for
35 disbursement;

36 (4) disbursed child support funds paid to the clerk by a personal
37 check that was later dishonored by a financial institution; and

38 (5) did not commit a criminal offense as a part of the
39 disbursement.

40 (e) If the clerk improperly disburses funds in the manner described
41 by subsection (d), the clerk shall do the following:

42 (1) Deduct an amount equal to the amount of funds improperly

C
O
P
Y



1 disbursed from fees collected under IC 33-19-6-5.

2 (2) Credit each account from which funds were improperly
3 disbursed with the amount of funds improperly disbursed under
4 subsection (d).

5 (3) Notify the prosecuting attorney of the county of:

6 (A) the amount of the improper disbursement;

7 (B) the person from whom the amount of the improper
8 disbursement should be collected; and

9 (C) any other information to assist the prosecuting attorney to
10 collect the amount of the improper disbursement.

11 (4) Record each action taken under this subsection on a form
12 prescribed by the state board of accounts.

13 (f) If:

14 (1) fees collected under IC 33-19-6-5 are credited to an account
15 under subsection (e)(2) because a check or money order was
16 dishonored by a financial institution or was the subject of a stop
17 payment order; and

18 (2) a person subsequently pays to the clerk all or part of the
19 amount of the check or money order that was dishonored or the
20 subject of a stop payment order;

21 the clerk shall reimburse the account containing fees collected under
22 IC 33-19-6-5 using the amount the person paid to the clerk.

23 **(g) The clerk is not personally liable for the amount of a**
24 **dishonored check, for penalties assessed against a dishonored**
25 **check, or for financial institution charges relating to a dishonored**
26 **check, if:**

27 **(1) the check was tendered to the clerk for the payment of a:**

28 **(A) fee;**

29 **(B) court ordered payment; or**

30 **(C) license; and**

31 **(2) the acceptance of the check was not an act or omission**
32 **constituting gross negligence or an intentional disregard of**
33 **the responsibilities of the office of clerk.**

34 SECTION 3. IC 34-30-2-144.5 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2000]: **Sec. 144.5. IC 33-17-1-4. (Concerning**
37 **the personal liability of circuit court clerks for dishonored checks.)**

38 SECTION 4. IC 34-30-2-152.4 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2000]: **Sec. 152.4. IC 36-2-10-24. (Concerning**
41 **the personal liability of county treasurers.)**

42 SECTION 5. IC 34-30-2-152.6 IS ADDED TO THE INDIANA



C
O
P
Y

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2000]: **Sec. 152.6. IC 36-2-11-7.5. (Concerning**
 3 **the personal liability of county recorders for dishonored checks.)**

4 SECTION 6. IC 36-2-10-24 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2000]: **Sec. 24. A county treasurer is not personally liable for any**
 7 **act or omission occurring in connection with the performance of**
 8 **the county treasurer's official duties, unless the act or omission**
 9 **constitutes gross negligence or an intentional disregard of the**
 10 **responsibilities of the office of county treasurer.**

11 SECTION 7. IC 36-2-11-7.5 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2000]: **Sec. 7.5. A county recorder is not personally liable for the**
 14 **amount of a dishonored check, for penalties assessed against a**
 15 **dishonored check, or for financial institution charges relating to a**
 16 **dishonored check, if:**

- 17 (1) the check was tendered to the county recorder for the
 18 payment of a fee; and
 19 (2) the acceptance of the check was not an act or omission
 20 constituting gross negligence or an intentional disregard of
 21 the responsibilities of the office of county recorder.

22 SECTION 8. IC 36-2-11-16 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) This section
 24 does not apply to:

- 25 (1) an instrument executed before November 4, 1943;
 26 (2) a judgment, order, or writ of a court;
 27 (3) a will or death certificate; or
 28 (4) an instrument executed or acknowledged outside Indiana.

29 (b) Whenever this section prescribes that the name of a person be
 30 printed, typewritten, or stamped immediately beneath his signature, the
 31 signature must be written on the instrument, directly preceding the
 32 printed, typewritten, or stamped name, and may not be superimposed
 33 on that name so as to render either illegible. However, the instrument
 34 may be received for record if the name and signature are, in the
 35 discretion of the county recorder, placed on the instrument so as to
 36 render the connection between the two apparent.

37 (c) The recorder may receive for record an instrument only if:

- 38 (1) the name of each person who executed the instrument is
 39 legibly printed, typewritten, or stamped immediately beneath his
 40 signature or the signature itself is printed, typewritten, or
 41 stamped;
 42 (2) the name of each witness to the instrument is legibly printed,

C
O
P
Y



1 typewritten, or stamped immediately beneath his signature or the
 2 signature itself is printed, typewritten, or stamped;
 3 (3) the name of each notary public whose signature appears on the
 4 instrument is legibly printed, typewritten, or stamped immediately
 5 beneath his signature or the signature itself is printed, typewritten,
 6 or stamped; and
 7 (4) the name of each person who executed the instrument appears
 8 identically in the body of the instrument, in the acknowledgment
 9 or jurat, in his signature, and beneath his signature;
 10 or if subsection (d) is complied with.

11 (d) The recorder may receive for record an instrument that does not
 12 comply with subsection (c) if:

- 13 (1) a printed or typewritten affidavit of a person with personal
- 14 knowledge of the facts is recorded with the instrument;
- 15 (2) the affidavit complies with this section;
- 16 (3) the affidavit states the correct name of a person, if any, whose
- 17 signature cannot be identified or whose name is not printed,
- 18 typewritten, or stamped on the instrument as prescribed by this
- 19 section; and
- 20 (4) when the instrument does not comply with subsection (c)(4),
- 21 the affidavit states the correct name of the person and states that
- 22 each of the names used in the instrument refers to the person.

23 (e) The recorder may record a copy produced by a photographic
 24 process of any document presented for recording if:

- 25 (1) the document complies with other statutory recording
- 26 requirements; and
- 27 (2) the copy is a clear, concise, and unobstructed copy.

28 All copies accepted for recording shall be marked as copies by the
 29 recorder.

30 (f) An instrument received and recorded by a county recorder is
 31 conclusively presumed to comply with this section.

32 **(g) The recorder may receive an instrument for record only if**
 33 **the recorder determines that the instrument is legible.**

34 SECTION 9. IC 6-1.1-12-8 IS REPEALED [EFFECTIVE JULY 1,
 35 2000].

C
O
P
Y

