SENATE BILL No. 338

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-21.2.

Synopsis: Property tax deferral. Provides a property tax deferral to homestead owners who are at least 65 years of age, blind, or totally and permanently disabled and who have Indiana adjusted gross incomes of less than $40,000. Provides that the deferral for an individual is the excess by which the current year property taxes exceed 3% of the taxpayer's Indiana adjusted gross income not to exceed 50% of the property taxes due. Provides that the property tax deferral becomes a lien against the property in favor of the state. Provides replacement revenue to local units from the property tax replacement fund. Appropriates money from the property tax replacement fund to replace the revenue lost from property tax deferrals. Requires county officials to recapture the deferred amount at the time the homestead is transferred.

Effective: January 1, 2001.

Simpson

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

Introduced

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.

SENATE BILL No. 338

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

SECTION 1. IC 6-1.1-21.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]:

Chapter 21.2 Property Tax Deferral Program

Sec. 1. As used in this chapter, "dwelling" means:

(1) an improvement to residential real property; or

(2) a mobile home not assessed as real property;

that an individual uses as the individual's residence.

Sec. 2. As used in this chapter, "homestead" means an individual's principal place of residence that:

(1) is located in Indiana;

(2) the individual either owns or is buying under a contract requiring the individual to pay the property taxes on the residence; and

(3) consists of a dwelling and any real estate, not exceeding one (1) acre, that immediately surrounds the dwelling.

Sec. 3. As used in this chapter, "net property tax bill" means the

amount of property taxes on a homestead that are currently due and payable by an individual for a particular calendar year after the application of all deductions and credits, except for the deferral allowed under this chapter, as evidenced by the tax statements prepared and mailed under IC 6-1.1-22-8.

Sec. 4. As used in this chapter, "qualifying individual" means an individual:

(1) who is at least sixty-five (65) years of age, blind, or totally and permanently disabled; and

(2) whose adjusted gross income (as defined in Section 62 of the Internal Revenue Code) combined with the adjusted gross income of all other individuals with whom the individual shares ownership or the individual is purchasing the property under a contract as joint tenants or tenants in common for the calendar year preceding the year in which the deferral is claimed did not exceed forty thousand dollars ($40,000).

Sec. 5. Each year a qualifying individual may receive a deferral of a portion of the net property tax bill on the individual's homestead. The amount of the deferral to which a qualifying individual is entitled equals the lesser of:

(1) the result of:

(A) the net property tax bill on the individual's homestead for the year of the computation; minus

(B) three percent (3%) of the individual's, or in the case of a homestead owned by two (2) or more individuals the combined, adjusted gross income for the previous taxable year; or

(2) fifty percent (50%) of the net property tax bill on the homestead for the year of the computation.

Sec. 6. An individual who desires to defer property taxes as provided by this chapter must file a certified statement in duplicate, on forms prescribed by the state board of tax commissioners, with the auditor of the county in which the individual's homestead is located. The statement must be filed during the twelve (12) months before May 11 of the year before the year for which the person wishes to obtain the deferral under this chapter. The statement must contain the following information:

(1) The individual's full name and complete address.

(2) A description of the individual's homestead and the number of years that the individual has resided at that homestead.

(3) Proof of the individual's age.

(4) The name of any other county and township in which the individual owns or is buying real property.
(5) The adjusted gross income for the previous taxable year of each owner or contract purchaser.
(6) Any other information requested by the state board of tax commissioners.

Sec. 7. For purposes of this chapter, if a homestead is owned by:
(1) tenants by the entirety;
(2) joint tenants; or
(3) tenants in common;
only one (1) deferral may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age. If all of the tenants are not at least sixty-five (65) years of age, the deferral allowed under this chapter shall be reduced by an amount equal to the deferral multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

Sec. 8. A surviving spouse is entitled to the deferral provided by this chapter if:
(1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deferral is claimed;
(2) the surviving spouse's deceased spouse was at least sixty-five (65) years of age at the time of death;
(3) the surviving spouse has not remarried; and
(4) the surviving spouse is a qualifying individual under section 4(2) of this chapter.

Sec. 9. An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deferral provided under this chapter against the real property.

Sec. 10. The auditor of a county with whom a statement is filed under this chapter shall immediately prepare and transmit a copy of the statement to the auditor of any other county if the individual who claims the deferral owns or is buying real property located in the other county. The county auditor of the other county shall note on the copy of the statement whether the individual has claimed a deferral under this chapter for a homestead located in that other county. The auditor shall then return the copy to the auditor of the first county.

Sec. 11. Upon receiving a proper deferral statement, the county

auditor shall allow the deferral and shall apply the deferral equally against each installment of property taxes payable in that calendar year. The county auditor shall include the amount of the deferral applied against each installment of taxes on the tax statement required under IC 6-1.1-22-8.

Sec. 12. After January 31 and before February 15 of each year, each county auditor shall certify to the state board of tax commissioners the number and amounts of the deferrals allowed under this chapter for that calendar year. Upon receiving the certifications, the state board of tax commissioners shall determine the total amount of the deferrals allowed in each county under this chapter and shall certify the totals to the department when the state board of tax commissioners certifies the total county tax levies. The department shall distribute to each county from the property tax replacement fund the amount of deferrals certified for that county by the state board of tax commissioners at the same time and in the same manner as the department distributes the county's estimated distribution under IC 6-1.1-21-4. Money is appropriated from the property tax replacement fund to make the distributions.

Sec. 13. The state acquires a lien against the homestead for which a deferral is allowed under this chapter equal to the total deferral allowed since the individual first qualified. In December of each year, the county recorder shall record a lien in favor of the state showing the total amount of deferrals and release any previous lien for the deferral. The county auditor shall not approve the transfer of a homestead unless the state has been reimbursed, by or on behalf of the person to whom the homestead is to be transferred, the total amount of deferrals. The county shall collect the reimbursement, which shall be transferred to the state. After the state is reimbursed, the county recorder shall release all liens of the state for deferrals paid. The treasurer of state shall deposit the amount received from the county in the property tax replacement fund.

Sec. 14. If an individual knowingly or intentionally files a false statement under this chapter, the individual must pay the amount of any deferral the individual received because of that false claim, plus interest, to the state board of tax commissioners for deposit in the property tax replacement fund established by IC 6-1.1-21-1.

SECTION 2. [EFFECTIVE JANUARY 1, 2001] **(a) IC 6-1.1-21.2, as added by this act, applies to deferral claims filed after December 31, 2000.**

(b) IC 6-1.1-21.2, as added by this act, applies to property taxes first due and payable after December 31, 2001.