

SENATE BILL No. 418

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-8.1-1-1.

Synopsis: Property tax deferral. Allows the deferral of any part of the property taxes that: (1) exceed a minimum required payment; and (2) are imposed on a homestead that is the principal place of residence of an individual who is at least 65 years of age, blind, or disabled (or the individual's surviving spouse) and who would otherwise qualify for a homestead credit. Makes an appropriation.

Effective: Upon passage; July 1, 2005.

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January 13, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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SENATE BILL No. 418



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:

1 SECTION 1. IC 6-1.1-5-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A person to
3 whom the title to real property has passed, either under the laws of
4 descent of this state or by virtue of the last will of a decedent, may
5 procure a transfer of the real property on the tax duplicate on which the
6 real property is assessed and taxed. In order to procure the transfer, the
7 person must prepare an affidavit and, except as provided in section 9
8 of this chapter, file it with the auditor of the county in which the real
9 property is situated. The affidavit shall contain the following
10 information:

- 11 (1) The decedent's date of death.
- 12 (2) Whether the decedent died testate or intestate. ~~and~~
- 13 (3) The affiant's interest in the real property.
- 14 (4) **If the real property is residential property, the amount of**
- 15 **any taxes that have been deferred under IC 6-1.1-45.**

16 In addition, if the decedent died testate, the affiant must attach a
17 certified copy of the decedent's will to the affidavit. However, if the



1 will has been probated or recorded in the county in which the real
2 property is located, the affiant, in lieu of attaching a certified copy of
3 the will, shall state that fact in the affidavit and indicate the volume and
4 page of the record where the will may be found.

5 (b) Except as provided in section 9 of this chapter, the county
6 auditor shall enter a transfer of the real property in the proper transfer
7 book after the affidavit is filed with ~~his~~ **the county auditor's** office.

8 (c) No transfer made under this section has the effect of conferring
9 title upon the person procuring the transfer.

10 **(d) Before the county auditor may transfer real property**
11 **described in subsection (a) on the last assessment list or apportion**
12 **the assessed value of the real property among the owners, the**
13 **owner must pay or otherwise satisfy all taxes on the parcels being**
14 **transferred that have become due under IC 6-1.1-45 as a result of**
15 **the death of the person by paying the property tax to the county**
16 **treasurer of the county in which the real property is located.**

17 (e) **If a county auditor transfers real property in the proper**
18 **transfer book in violation of subsection (d):**

- 19 (1) **a lien for and the duty to pay property taxes that are due**
- 20 **and owing are not released or otherwise extinguished; and**
- 21 (2) **property taxes that are due and owing on the affected**
- 22 **parcel of property may be collected as if the county auditor**
- 23 **had not transferred the property in the proper transfer book**
- 24 **in violation of subsection (d).**

25 SECTION 2. IC 6-1.1-5.5-5 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The department
27 of local government finance shall prescribe a sales disclosure form for
28 use under this chapter. The form prescribed by the department of local
29 government finance must include at least the following information:

- 30 (1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
- 31 (2) Whether the entire parcel is being conveyed.
- 32 (3) The address of the property.
- 33 (4) The date of the execution of the form.
- 34 (5) The date the property was transferred.
- 35 (6) Whether the transfer includes an interest in land or
- 36 improvements, or both.
- 37 (7) Whether the transfer includes personal property.
- 38 (8) An estimate of any personal property included in the transfer.
- 39 (9) The name and address of each transferor and transferee.
- 40 (10) The mailing address to which the property tax bills or other
- 41 official correspondence should be sent.
- 42 (11) The ownership interest transferred.

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- 1 (12) The classification of the property (as residential, commercial,
- 2 industrial, agricultural, vacant land, or other).
- 3 (13) The total price actually paid or required to be paid in
- 4 exchange for the conveyance, whether in terms of money,
- 5 property, a service, an agreement, or other consideration, but
- 6 excluding tax payments and payments for legal and other services
- 7 that are incidental to the conveyance.
- 8 (14) The terms of seller provided financing, such as interest rate,
- 9 points, type of loan, amount of loan, and amortization period, and
- 10 whether the borrower is personally liable for repayment of the
- 11 loan.
- 12 (15) Any family or business relationship existing between the
- 13 transferor and the transferee.
- 14 **(16) If the transferred property is residential property, the**
- 15 **amount of any taxes deferred under IC 6-1.1-45.**
- 16 ~~(16)~~ (17) Other information as required by the department of local
- 17 government finance to carry out this chapter.

18 If a form under this section includes the telephone number or the Social
 19 Security number of a party, the telephone number or the Social Security
 20 number is confidential.

21 SECTION 3. IC 6-1.1-22-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. On or before
 23 March 15 of each year, the county auditor shall prepare and deliver to
 24 the auditor of state and the county treasurer a certified copy of an
 25 abstract of the property, assessments, taxes, deductions, and
 26 exemptions for taxes payable in that year in each taxing district of the
 27 county. The county auditor shall prepare the abstract in such a manner
 28 that the information concerning property tax deductions reflects the
 29 total amount of each type of deduction. The abstract shall also contain
 30 a statement of the taxes and penalties unpaid in each taxing unit **and**
 31 **the amount of taxes deferred under IC 6-1.1-45** at the time of the
 32 last settlement between the county auditor and county treasurer and the
 33 status of these delinquencies **and deferred taxes**. The county auditor
 34 shall prepare the abstract on the form prescribed by the state board of
 35 accounts. The **offices of the** auditor of state, county auditor, and county
 36 treasurer shall each keep a copy of the abstract ~~in his office~~ as a public
 37 record.

38 SECTION 4. IC 6-1.1-22-6 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The county
 40 treasurer shall keep a register of taxes and special assessments in the
 41 manner and on the form prescribed by the state board of accounts. ~~He~~
 42 **The county treasurer** shall enter:

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- 1 (1) each payment of the taxes and special assessments in the
- 2 register on the day the payment is received; and
- 3 (2) each deferral of the payment of property taxes in the
- 4 register on the day the taxes would otherwise be due if the
- 5 taxes had not been deferred under IC 6-1.1-45.

6 SECTION 5. IC 6-1.1-22-8 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county
 8 treasurer shall either:

9 (1) mail to the last known address of each person liable for any
 10 property taxes or special assessment, as shown on the tax
 11 duplicate or special assessment records, or to the last known
 12 address of the most recent owner shown in the transfer book a
 13 statement of current and delinquent taxes and special
 14 assessments; or

15 (2) transmit by written, electronic, or other means to a mortgagee
 16 maintaining an escrow account for a person who is liable for any
 17 property taxes or special assessments, as shown on the tax
 18 duplicate or special assessment records a statement of current and
 19 delinquent taxes and special assessments.

20 (b) The county treasurer may include the following in the statement:

- 21 (1) An itemized listing for each property tax levy, including:
 - 22 (A) the amount of the tax rate;
 - 23 (B) the entity levying the tax owed; and
 - 24 (C) the dollar amount of the tax owed.

25 (2) Information designed to inform the taxpayer or mortgagee
 26 clearly and accurately of the manner in which the taxes billed in
 27 the tax statement are to be used.

28 A form used and the method by which the statement and information,
 29 if any, are transmitted must be approved by the state board of accounts.

30 The county treasurer may mail or transmit the statement and
 31 information, if any, one (1) time each year at least fifteen (15) days
 32 before the date on which the first or only installment is due. Whenever
 33 a person's tax liability for a year is due in one (1) installment under
 34 IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must
 35 include the date on which the installment is due and denote the amount
 36 of money to be paid for the installment. Whenever a person's tax
 37 liability is due in two (2) installments, a statement that is mailed must
 38 contain the dates on which the first and second installments are due and
 39 denote the amount of money to be paid for each installment.

40 (c) All payments of property taxes and special assessments shall be
 41 made to the county treasurer. The county treasurer, when authorized by
 42 the board of county commissioners, may open temporary offices for the

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1 collection of taxes in cities and towns in the county other than the
2 county seat.

3 (d) Before July 1, 2004, the department of local government finance
4 shall designate five (5) counties to participate in a pilot program to
5 implement the requirements of subsection (e). The department shall
6 immediately notify the county treasurer, county auditor, and county
7 assessor in writing of the designation under this subsection. The
8 legislative body of a county not designated for participation in the pilot
9 program may adopt an ordinance to implement the requirements of
10 subsection (e). The legislative body shall submit a copy of the
11 ordinance to the department of local government finance, which shall
12 monitor the county's implementation of the requirements of subsection
13 (e) as if the county were a participant in the pilot program. The
14 requirements of subsection (e) apply:

- 15 (1) only in:
 - 16 (A) a county designated to participate in a pilot program under
 - 17 this subsection, for property taxes first due and payable after
 - 18 December 31, 2004, and before January 1, 2008; or
 - 19 (B) a county adopting an ordinance under this subsection, for
 - 20 property taxes first due and payable after December 31, 2003,
 - 21 or December 31, 2004 (as determined in the ordinance), and
 - 22 before January 1, 2008; and

- 23 (2) in all counties for taxes first due and payable after December
- 24 31, 2007.

25 (e) Subject to subsection (d), regardless of whether a county
26 treasurer transmits a statement of current and delinquent taxes and
27 special assessments to a person liable for the taxes under subsection
28 (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer
29 shall mail the following information to the last known address of each
30 person liable for the property taxes or special assessments or to the last
31 known address of the most recent owner shown in the transfer book.
32 The county treasurer shall mail the information not later than the date
33 the county treasurer transmits a statement for the property under
34 subsection (a)(1) or (a)(2). The county treasurer, county auditor, and
35 county assessor shall cooperate to generate the information to be
36 included on the form. The information that must be provided is the
37 following:

- 38 (1) A breakdown showing the total property tax and special
- 39 assessment liability and the amount of the taxpayer's liability that
- 40 will be distributed to each taxing unit in the county.
- 41 (2) A comparison showing any change in the assessed valuation
- 42 for the property as compared to the previous year.

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1 (3) A comparison showing any change in the property tax and
 2 special assessment liability for the property as compared to the
 3 previous year. The information required under this subdivision
 4 must identify:
 5 (A) the amount of the taxpayer's liability distributable to each
 6 taxing unit in which the property is located in the current year
 7 and in the previous year; and
 8 (B) the percentage change, if any, in the amount of the
 9 taxpayer's liability distributable to each taxing unit in which
 10 the property is located from the previous year to the current
 11 year.
 12 (4) An explanation of the following:
 13 (A) The homestead credit and all property tax deductions.
 14 (B) The procedure and deadline for filing for the homestead
 15 credit and each deduction.
 16 (C) The procedure that a taxpayer must follow to:
 17 (i) appeal a current assessment; or
 18 (ii) petition for the correction of an error related to the
 19 taxpayer's property tax and special assessment liability.
 20 (D) The forms that must be filed for an appeal or petition
 21 described in clause (C).
 22 The department of local government finance shall provide the
 23 explanation required by this subdivision to each county treasurer.
 24 (5) A checklist that shows:
 25 (A) the homestead credit and all property tax deductions; and
 26 (B) whether the homestead credit and each property tax
 27 deduction applies in the current statement for the property
 28 transmitted under subsection (a)(1) or (a)(2).
 29 (f) The information required to be mailed under subsection (e) must
 30 be simply and clearly presented and understandable to the average
 31 individual.
 32 (g) A county that incurs:
 33 (1) initial computer programming costs directly related to
 34 implementation of the requirements of subsection (e); or
 35 (2) printing costs directly related to mailing information under
 36 subsection (e);
 37 shall submit an itemized statement of the costs to the department of
 38 local government finance for reimbursement from the state. The
 39 treasurer of state shall pay a claim approved by the department of local
 40 government finance and submitted under this section on a warrant of
 41 the auditor of state. However, the treasurer of state may not pay any
 42 additional claims under this subsection after the total amount of claims

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1 paid reaches fifty thousand dollars (\$50,000).

2 (h) The county treasurer shall include the following in a
3 statement concerning residential real property (other than
4 property known by the county treasurer to be rental property) that
5 is distributed under subsection (a) after May 15, 2005:

6 (1) A brief description of the availability of the property tax
7 deferral program under IC 6-1.1-45.

8 (2) If the property has been approved for the deferral of
9 property taxes:

10 (A) the minimum required payment that must be made on
11 each installment due date to maintain eligibility for the
12 deferral of property taxes under IC 6-1.1-45;

13 (B) a separate statement of the amount of property taxes
14 that would otherwise be due and payable by each
15 installment date that may be deferred under IC 6-1.1-45;

16 (C) the control number assigned under IC 6-1.1-45 to the
17 application for deferral that is in effect; and

18 (D) the cumulative total of the property taxes deferred
19 under IC 6-1.1-45 in the current year and all prior years,
20 if the amount is greater than zero dollars (\$0).

21 The information provided under this subsection must be in the
22 form prescribed by the department of local government finance.

23 SECTION 6. IC 6-1.1-22-9 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as
25 provided in IC 6-1.1-7-7, **IC 6-1.1-45**, section 9.5 of this chapter, and
26 subsection (b), the property taxes assessed for a year under this article
27 are due in two (2) equal installments on May 10 and November 10 of
28 the following year.

29 (b) A county council may adopt an ordinance to require a person to
30 pay the person's property tax liability in one (1) installment, if the tax
31 liability for a particular year is less than twenty-five dollars (\$25). If the
32 county council has adopted such an ordinance, then whenever a tax
33 statement mailed under section 8 of this chapter shows that the person's
34 property tax liability for a year is less than twenty-five dollars (\$25) for
35 the property covered by that statement, the tax liability for that year is
36 due in one (1) installment on May 10 of that year.

37 (c) If property taxes are not paid on or before the due date, the
38 penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent
39 taxes.

40 (d) Notwithstanding any other law, a property tax liability of less
41 than five dollars (\$5) is increased to five dollars (\$5). The difference
42 between the actual liability and the five dollar (\$5) amount that appears

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1 on the statement is a statement processing charge. The statement
2 processing charge is considered a part of the tax liability.

3 SECTION 7. IC 6-1.1-22-10 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person
5 who is liable for property taxes under IC 6-1.1-2-4, **including property**
6 **taxes deferred under IC 6-1.1-45 after the deferred taxes become**
7 **due**, is personally liable for the taxes and all penalties, cost, and
8 collection expenses, including reasonable attorney's fees and court
9 costs, resulting from late payment of the taxes.

10 (b) A person's liability under this section may be enforced by any
11 legal remedy, including a civil lawsuit instituted by a county treasurer
12 or a county executive to collect delinquent taxes. One (1) action may
13 be initiated to collect all taxes, penalties, cost, and collection expenses
14 levied against a person in the same county for one (1) or more years.
15 However, an action may not be initiated to enforce the collection of
16 taxes after ten (10) years from the first Monday in May of the year in
17 which the taxes first became due. An action initiated within the ten (10)
18 year period may be prosecuted to termination.

19 (c) **In addition to any other method of collection authorized**
20 **under this article, the department of state revenue may collect:**

21 (1) **property taxes deferred under IC 6-1.1-45, after the**
22 **deferred taxes become due; and**

23 (2) **all interest, penalties, costs, and collection expenses,**
24 **including reasonable attorney's fees and court costs accruing**
25 **under this article, after the deferred taxes become due under**
26 **IC 6-1.1-45;**

27 **as a listed tax.**

28 SECTION 8. IC 6-1.1-22-13 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The state
30 acquires a lien on each tract of real property for all property taxes
31 levied against the tract, including the land under an improvement or
32 appurtenance described in IC 6-1.1-2-4(b), and all subsequent penalties
33 and cost resulting from the taxes. This lien attaches on the assessment
34 date of the year for which the taxes are assessed. The lien is not
35 affected by any sale or transfer of the tract, including the land under an
36 improvement or appurtenance described in IC 6-1.1-2-4(b), including
37 the sale, exchange, or lease of the tract under IC 36-1-11.

38 (b) The lien of the state for taxes, penalties, and cost continues for
39 ten (10) years from May 10 of the year in which the taxes first become
40 due. **For purposes of IC 6-1.1-45, the due date is the date to which**
41 **property taxes are deferred under IC 6-1.1-45.** However, if any
42 proceeding is instituted to enforce the lien within the ten (10) year

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1 period, the limitation is extended, if necessary, to permit the
2 termination of the proceeding.

3 (c) The lien of the state inures to taxing units which impose the
4 property taxes on which the lien is based, and the lien is superior to all
5 other liens.

6 (d) A taxing unit described in subsection (c) may institute a civil
7 suit against a person or an entity liable for delinquent property taxes.
8 The taxing unit may, after obtaining a judgment, collect:

- 9 (1) delinquent real property taxes;
- 10 (2) penalties due to the delinquency; and
- 11 (3) costs and expenses incurred in collecting the delinquent
12 property tax, including reasonable attorney's fees and court costs
13 approved by a court with jurisdiction.

14 SECTION 9. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE
15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]:

17 **Chapter 45. Property Tax Deferral Program**

18 **Sec. 1. This chapter applies to the deferral of property taxes for**
19 **a qualified resident who not later than December 31 in the year**
20 **containing the assessment date for which property taxes are**
21 **imposed is:**

- 22 (1) at least sixty-five (65) years of age;
- 23 (2) blind (as defined in IC 6-1.1-12-11);
- 24 (3) a disabled person (as defined in IC 6-1.1-12-11); or
- 25 (4) a qualified surviving spouse.

26 **Sec. 2. As used in this chapter, "base year" refers to the year**
27 **determined under this chapter.**

28 **Sec. 3. As used in this chapter, "homestead" means property**
29 **that:**

- 30 (1) qualifies for a homestead credit under IC 6-1.1-20.9; or
- 31 (2) would qualify for a homestead credit under IC 6-1.1-20.9
32 if the qualified resident filed an application for the credit.

33 **Sec. 4. As used in this chapter, "minimum required payment"**
34 **means the minimum amount that must be paid in a year to retain**
35 **eligibility for the deferment of property taxes under this chapter.**

36 **Sec. 5. As used in this chapter, "property tax" refers to the**
37 **amount of ad valorem property tax liability that would be first due**
38 **and payable in a year on a homestead without any deferral of the**
39 **taxes under this chapter. The term does not include the following:**

- 40 (1) Special assessments chargeable against a homestead.
- 41 (2) Fees or charges that are included by law on a tax
42 statement issued under IC 6-1.1-22-8 for parcels that include

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a homestead.

Sec. 6. As used in this chapter, "qualified resident" means an individual:

- (1) whose principal place of residence, as determined under IC 6-1.1-20.9, is the homestead for which an application to defer property taxes has been filed under this chapter;
- (2) who has an interest in a homestead that qualifies or would qualify the homestead for a homestead credit under IC 6-1.1-20.9;
- (3) who meets the age or disability requirements described in section 1(1), 1(2), or 1(3) of this chapter; and
- (4) who continuously uses the homestead as the individual's principal place of residence, as determined under IC 6-1.1-20.9, after the individual initially qualifies as a qualified resident.

Sec. 7. As used in this chapter, "qualified surviving spouse" means an individual who:

- (1) is the surviving spouse of a qualified resident who was approved under this chapter to defer property taxes for the assessment date immediately preceding the individual's death, regardless of whether the deceased qualified resident elected to defer any property taxes;
- (2) on the date that the qualified resident died, had the individual's principal place of residence, as determined under IC 6-1.1-20.9, at the same homestead as the deceased qualified resident;
- (3) continuously uses the homestead as the surviving spouse's principal place of residence, as determined under IC 6-1.1-20.9, after the death of the qualified resident; and
- (4) has not remarried.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that is liable for property taxes imposed for a year.

Sec. 9. Beginning with property taxes first due and payable in 2006, a taxpayer may, in conformity with this chapter, defer the due date for any part of the property tax liability imposed in a year that exceeds the minimum required payment.

Sec. 10. To qualify for the deferment of property taxes under this chapter, the taxpayer must do the following:

- (1) Apply for deferment of property taxes to the auditor of the county in which the affected homestead is located in the manner and on the forms prescribed by the department of local government finance.

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(2) Apply for deferment of property taxes not later than the later of the following:

(A) The date when the first installment for property taxes being deferred is first due and payable.

(B) If the county auditor determines that the failure to file a timely application is the result of an inadvertent error, the date specified by the county auditor.

(3) Demonstrate that the homestead was the principal place of residence of at least one (1) qualified resident or qualified surviving spouse on the assessment date for which property taxes are being deferred.

(4) Demonstrate that the owners of the homestead meet any conditions established by rule adopted by the department of local government finance under IC 4-22-2 that are reasonably necessary to protect the government's interest in recovering taxes deferred under this chapter when the deferred taxes become due.

(5) Demonstrate that there are no delinquent property taxes of record for the homestead on the assessment date for which property taxes are being deferred.

Sec. 11. Upon receipt of an application under section 10 of this chapter, the county auditor shall:

(1) notify the county treasurer that the application has been received in the manner and form prescribed by the department of local government finance; and

(2) determine whether the homestead qualifies for deferment of property taxes.

Sec. 12. The county auditor shall notify the:

(1) taxpayer in writing;

(2) county treasurer in the manner and form prescribed by the department of local government finance; and

(3) if the application is approved, department of local government finance in the manner and form prescribed by the department of local government finance;

of the county auditor's determination concerning the application. The due date for property taxes that are the subject of a good faith application for deferment of property taxes is deferred until the date that the county auditor notifies the taxpayer of the county auditor's determination concerning the application.

Sec. 13. (a) A homestead that is approved under this chapter for the deferral of property taxes continues to be eligible for the deferment of property taxes in subsequent years without the

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refiling of an application under section 10 of this chapter as long as:

- (1) the homestead continues to be the principal place of residence for a qualified resident identified in the application or the qualified surviving spouse of the qualified resident; and
- (2) the minimum required payments for the homestead are made by the later of:

- (A) the due date; or
- (B) if the county auditor determines that a payment was not made for a reason authorized under rules adopted under IC 4-22-2 by the department of local government finance, the date set by the county auditor.

(b) A taxpayer for the homestead shall notify in the manner and form prescribed by the department of local government finance the auditor of the county in which the homestead is located of any change in ownership of the homestead regardless of whether the change affects the eligibility of the homestead for deferment under this chapter.

(c) If an event results in:

- (1) deferred property taxes becoming due under this chapter; or
- (2) ineligibility of the homestead for further deferment of property taxes;

a taxpayer for the homestead shall, within thirty (30) days after the event, notify the auditor of the county in which the homestead is located of the disqualifying event in the manner and form prescribed by the department of local government finance.

(d) The county auditor and county treasurer shall:

- (1) allow the deferment of property taxes that would otherwise be first due and payable in a year for a homestead that has been approved for deferment under this chapter; and
- (2) continue to defer the accumulated amount of unpaid property taxes deferred from a preceding year;

unless the county auditor determines that the homestead is no longer eligible for deferment.

(e) The county auditor shall notify the:

- (1) taxpayer;
- (2) county treasurer; and
- (3) department of local government finance;

in the manner and form prescribed by the department of local government finance of the county auditor's determination concerning an event described in subsection (c).

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1 **Sec. 14. (a) A taxpayer for a homestead shall notify the county**
2 **treasurer of the amount of property taxes that the taxpayer seeks**
3 **to defer under this chapter in the manner and form prescribed by**
4 **the department of local government finance.**

5 **(b) The department of local government finance shall provide**
6 **procedures for notification under this section:**

- 7 **(1) on an annual basis; or**
 - 8 **(2) on a continuing or multiyear basis;**
- 9 **at the election of the taxpayer. The department of local government**
10 **finance shall allow a taxpayer to combine a notification of the**
11 **amount to be deferred with an application filed under section 10 of**
12 **this chapter. If the notice is combined with an application, the**
13 **county auditor shall forward the notice to the county treasurer in**
14 **the manner and form specified by the department of local**
15 **government finance. The department of local government finance**
16 **shall allow the taxpayer to designate what percentage of the**
17 **amount to be deferred will be deferred in each installment due in**
18 **that year.**

19 **(c) To apply to property taxes due in a year, a notice under this**
20 **section that describes the amount to be deferred in that year must**
21 **be filed not later than the following:**

- 22 **(1) The date the first installment of the deferred taxes is due.**
- 23 **(2) If the county treasurer determines that the failure to file**
24 **a timely application is the result of an inadvertent error, the**
25 **date specified by the county treasurer.**

26 **Sec. 15. The county treasurer shall allow the deferment in any**
27 **particular year of not more than the lesser of the following:**

- 28 **(1) The amount that the taxpayer requests be deferred.**
- 29 **(2) The property tax liability exceeding the minimum required**
30 **payment.**

31 **If the taxpayer designates the percentage of the deferment to apply**
32 **to an installment date, the county treasurer shall apply the**
33 **deferment as requested by the taxpayer. Otherwise, the county**
34 **treasurer shall apply the deferment in the manner prescribed by**
35 **the department of local government finance.**

36 **Sec. 16. (a) Subject to subsection (c), the maximum amount that**
37 **may be deferred in a year is equal to fifty percent (50%) of the**
38 **increase in the total property tax liability for a homestead after the**
39 **assessment date in the base year.**

40 **(b) The base year for a homestead is the first year in which an**
41 **individual who has the individual's principal place of residence at**
42 **the homestead, as determined under IC 6-1.1-20.9, has met all the**

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requirements to be a qualified resident.

(c) If after the assessment date in the base year described in subsection (b) an improvement or addition of land is made to the homestead, the maximum amount that may be deferred shall be calculated for the improvement or addition of land separately from the remainder of the homestead. The base year for the improvement or addition is the first year in which the improvement or addition of land was assessed as part of the homestead.

Sec. 17. The minimum payment that is required in a year to be eligible to defer or retain a deferment of property taxes is a sum equal to the total property tax liability imposed for the assessment date in the base year and fifty percent (50%) of the increase in the total property tax liability after the base year.

Sec. 18. The county auditor shall annually determine the following:

- (1) The minimum required payment for the most current assessment date.
- (2) The maximum amount of property tax liability that may be deferred for the current assessment date.

The county auditor shall notify the county treasurer of the amount of the minimum required payment and the amount that may be deferred in a year.

Sec. 19. The amount of any unpaid property taxes deferred in any particular year is not due until after the later of the following:

- (1) The date that all the qualified residents named in the application for property tax deferral cease to qualify as qualified residents.
- (2) The date that no surviving spouse of a qualified resident named in an application for property tax deferral qualifies as a surviving spouse.

If ownership is transferred in exchange for anything of value, the unpaid property taxes are due on the next business day after the transfer. Otherwise, the unpaid property taxes are due on the next regular installment date for the payment of property taxes.

Sec. 20. Any taxpayer for the homestead may appeal an adverse decision under this chapter in the same manner that appeals may be taken under IC 6-1.1-15. Any taxpayer for the homestead may become a party to the appeal.

Sec. 21. (a) If deferred property taxes are not paid by the due date, the property taxes shall be treated as delinquent property taxes under this article and as a delinquent tax liability under

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1 IC 6-8.1. The county auditor, in the manner prescribed by the
2 department of local government finance, shall notify the
3 department of local government finance of the delinquency not
4 later than fifteen (15) days after the taxes become delinquent. The
5 department of local government finance shall notify the
6 department of state revenue of the delinquency.

7 (b) A county shall collect the delinquent liability in the manner
8 that other delinquent property taxes are collected.

9 (c) The department of state revenue may assist the county by
10 collecting the delinquent liability in the manner that any other
11 delinquent listed tax is collected.

12 Sec. 22. The county auditor and the county treasurer shall
13 separately account for:

- 14 (1) property taxes that are subject to an application for
- 15 deferral under this chapter; and
- 16 (2) property taxes deferred under this chapter.

17 Sec. 23. (a) Not later than the settlement date after property
18 taxes are deferred under this chapter, the county treasurer shall
19 send:

- 20 (1) an electronic copy of a notice of the amount of property
- 21 taxes deferred on each homestead since the immediately
- 22 preceding settlement date to the department of local
- 23 government finance; and
- 24 (2) if the homestead consists of real property, a written copy
- 25 of the notice of property taxes deferred on the homestead
- 26 since the immediately preceding settlement date to the county
- 27 recorder.

28 (b) The notice must be sent in the form prescribed by the
29 department of local government finance.

30 (c) The notice submitted to the county recorder must contain at
31 least the following information:

- 32 (1) The name of each person liable for the deferred property
- 33 taxes under IC 6-1.1-2-4.
- 34 (2) The control number assigned to the corresponding
- 35 application for deferral.
- 36 (3) The index number assigned under IC 6-1.1-5-2 for the
- 37 homestead or, if an index system is not used in the county, a
- 38 description of the county, township, block, and parcel or lot in
- 39 which the homestead is located.
- 40 (4) The amount of property taxes that were deferred on each
- 41 homestead since the last settlement date.
- 42 (5) The part of the deferred property taxes that is attributable

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to property taxes imposed by the state.

(6) The total amount of all property taxes deferred on all homesteads since the last settlement date.

The notice sent to the department of local government finance must also contain the Social Security number or other taxpayer identification number used by each person that is liable for the property taxes on the homestead under IC 6-1.1-2-4 on the person's state adjusted gross income tax returns.

Sec. 24. When deferred property taxes are paid, the county treasurer shall:

- (1) record the payment;
- (2) notify the county auditor of the payment;
- (3) if the payment is for real property, submit a written release of the lien for the amount of the payment to the county recorder for recording in the miscellaneous records of the county recorder; and
- (4) notify the department of local government finance of the payment in the form prescribed by the department of local government finance.

Sec. 25. The county recorder shall record a:

- (1) statement of the amount of property tax deferred;
- (2) statement of payment of deferred property; and
- (3) notice of termination of a deferral;

without charge, in the miscellaneous records of the county recorder.

Sec. 26. The department of local government finance shall distribute an electronic copy of each notice and statement received under this chapter to the department of state revenue.

Sec. 27. (a) Subject to this chapter, not later than the next distribution date under IC 6-1.1-27-1 after the department of state revenue receives a notice of the amount of property taxes deferred on a homestead, the department of state revenue shall distribute from the state general fund to the county treasurer an amount equal to the amount of the deferred taxes covered by the notices received since the distribution date under IC 6-1.1-21-10 after subtracting the amount of deferred taxes attributable to property taxes imposed by the state. The department of state revenue shall notify the auditor of state to transfer from the state general fund to the appropriate fund an amount equal to the deferred taxes imposed by the state and due to that fund.

(b) An amount distributed under subsection (a) is a temporary advance of the deferred taxes. The amount is not a debt of a taxing

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1 unit but is subject to repayment solely from amounts collected
2 when the deferred taxes become due.

3 (c) Not later than thirty (30) days after receipt, a county
4 treasurer shall distribute the money received under this section
5 among the entities imposing the deferred taxes in proportion to the
6 amount of deferred taxes imposed by each entity.

7 (d) An amount distributed or transferred under this section is
8 available for use by a taxing unit to the same extent and in the
9 same manner as if the amount had been collected as taxes. For
10 purposes of computing the ad valorem property tax levy limits
11 imposed under IC 6-1.1-18.5-3 or another provision, a taxing unit's
12 ad valorem property tax levy for a particular calendar year
13 includes that part of the tax levy deferred under this chapter.

14 (e) An error in the amount distributed or transferred under this
15 section shall be corrected on the next settlement date after the
16 error is discovered.

17 (f) The amounts necessary to make the distributions and
18 transfers required by this section are annually appropriated from
19 the state general fund.

20 Sec. 28. Subject to this chapter, the county auditor shall
21 distribute:

- 22 (1) amounts collected from deferred property taxes; and
 - 23 (2) penalties and interest collected on delinquent deferred
24 property taxes;
- 25 to the department of state revenue for deposit in the state general
26 fund not later than the next settlement date under IC 6-1.1-27-1
27 after the amounts are collected.

28 Sec. 29. In making distributions under this chapter, the
29 department of state revenue and the county auditor of a county
30 may make a settlement of amounts owing to each other rather than
31 making separate distributions.

32 Sec. 30. (a) Except:

- 33 (1) as required by federal law or regulation;
- 34 (2) in the case of a loan that is made, guaranteed, or insured
35 by a federal government lending or insuring agency requiring
36 the borrower to make payments to a lender with respect to an
37 escrow or other type of account; or
- 38 (3) in a case in which this section would impair the obligations
39 of a borrower under an agreement executed before July 1,
40 2005;

41 a lender shall not require a borrower to maintain an escrow or
42 other type of account with regard to taxes for which the borrower

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1 has elected to defer taxes under this chapter.

2 (b) For purposes of applying this section, an election to defer
3 taxes in any year shall be treated as an election to defer a similar
4 amount of taxes in later years except to the extent that the
5 borrower notifies the lender of different terms.

6 (c) Any payments made by the borrower to the escrow or other
7 type of account with regard to taxes, before the time of submission
8 of the evidence of tax deferral, for any period, if not previously
9 used in payment or partial payment of taxes, shall be refunded to
10 the borrower within thirty (30) days after the payment is made.

11 SECTION 10. IC 6-8.1-1-1 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. "Listed taxes" or
13 "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through
14 IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat
15 wagering tax (IC 4-33-13); **deferred property tax liability**
16 **(IC 6-1.1-45)**; the gross income tax (IC 6-2.1) (repealed); the utility
17 receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5);
18 the adjusted gross income tax (IC 6-3); the supplemental net income
19 tax (IC 6-3-8) (repealed); the county adjusted gross income tax
20 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
21 economic development income tax (IC 6-3.5-7); the municipal option
22 income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the
23 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
24 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
25 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
26 collected under a reciprocal agreement under IC 6-8.1-3; the motor
27 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
28 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the
29 cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
30 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
31 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the
32 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
33 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
34 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
35 (IC 16-44-2); the emergency and hazardous chemical inventory form
36 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
37 and IC 9-30); the fees and penalties assessed for overweight vehicles
38 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
39 the solid waste management fee (IC 13-20-22); and any other tax or fee
40 that the department is required to collect or administer.

41 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) **The definitions**
42 **in IC 6-1.1-1 apply throughout this SECTION.**

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1 **(b) IC 6-1.1-45, as added by this act, applies only to ad valorem**
2 **property taxes first due and payable for assessment dates after**
3 **February 28, 2005.**

4 **SECTION 12. An emergency is declared for this act.**

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