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FISCAL IMPACT STATEMENT

LS 6653
BILL NUMBER: HB 1211

NOTE PREPARED: Mar 20, 2007
BILL AMENDED: Mar 19, 2007

SUBJECT: Tax Sales.

FIRST AUTHOR: Rep. Van Haften
FIRST SPONSOR: Sen. Boots

BILL STATUS: As Passed Senate

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: *Termination of Tax Sales & Refunds-* The bill limits the circumstances under which a tax sale purchaser may terminate the purchase before conclusion and receive a refund of a part of the purchase price. The bill reduces the amount of the refund. The bill requires reinstatement and collection of any remaining delinquencies after the terminated purchase. The bill prohibits a tax sale purchaser who fails to make payment and complete the sale from participating in the next succeeding tax sale in the county.

Delinquent Property Taxes- The bill provides a procedure for searching the records for an alternative mailing address when service of notice of an order for the sale of property for delinquent property taxes is initially unsuccessful.

Obsolete References- The bill eliminates an obsolete reference to the dates when a tax sale must be held.

Reduction of Period of Sale- The bill reduces the period before a tax sale may be conducted when property has been offered at sale without success.

Electronic Tax Sales- The bill permits a tax sale to be conducted by electronic means.

Civil Penalties for Failed Bids- The bill provides that any civil penalty collected because a purchaser fails to pay the bid must be deposited in the county general fund and not the Common School Fund.

Additional Costs of Tax Sale- The bill requires a purchaser of property at a tax sale to certify certain additional costs that must be paid by a redeeming property owner not earlier than 30 days after the tax sale.

Serving of Motions and Pleadings- The bill requires pleadings and motions related to a defense to a judgment and order of sale to be served on the county auditor and county treasurer.

Extension of Expedited Second Sales- The bill permits a county before August 1, 2007, to use the expedited sale procedures repealed by HEA 1102-2006 for property that failed to sell at a tax sale conducted before 2007.

Effective Date: Upon passage; July 1, 2007.

Explanation of State Expenditures:

Explanation of State Revenues: *Civil Penalties for Failed Bids-* Penalties assessed to purchasers in a failed tax sale would no longer be deposited into the Common School Fund (CSF) but would be deposited into county general funds. Removal of these penalties from deposit into the CSF would reduce state revenues. The amount of money that would be diverted from the CSF to county general funds is indeterminable since the money received from county auditors for various fines and forfeitures is submitted to the Auditor of State in a lump sum.

Explanation of Local Expenditures: *Delinquent Property Taxes-* County auditors would have to mail, by first class, a second notice of sale, if the first notice was returned due to an incorrect/insufficient address. In addition, county auditors would *determine* whether mailing a first class notice or serving the notice on the property is a reasonable step of notifying owners whose address is not the same as the address of the property in question.

Reduction of Period of Tax Sale- Under the bill, if the county auditor and treasurer agree, a property that failed to sell could be put back up for sale under an expedited process. The property would be allowed to be sold from January 1 to before August 1 of the year following the initial attempt to sell the property in question. The second attempt at sale may occur at least 90 days after the first attempt.

In Marion County, the county auditor would notify the Metropolitan Development Commission (MDC) whenever an adequate bid has not been received on real property at sale. The MDC would then be given time to identify any property desired to be acquired for urban homesteading or redevelopment purposes. The MDC would have to report to the Auditor a list of desired properties.

The Marion County Auditor would then execute and deliver a deed to the MDC for any property on the MDC's list, subject to the procedures in law for redemption of real property sold in case of delinquent taxes and special assessments.

Properties from the list but not acquired by the MDC would be placed back on the delinquent taxes list. The MDC may not pay for any property acquired from the list given to the Auditor. A taxing unit having an interest in the taxes on the real property would be credited with the full amount of the delinquent taxes due.

Marion County would acquire a lien against any property not on the MDC's list and offered for two consecutive sales.

Electronic Tax Sales- For county treasurers that currently contract for auctioneer services, this provision would not have a significant impact to local expenditures. Amounts paid for electronic auction services would be subject to contract agreements between treasurers and the auctioneer service.

At least 76 of the 92 counties in Indiana contract with an auctioneer to hold the treasurer's tax sales. At least an additional 4 counties may have in-house resources to hold a tax sale without the help of an auctioneer.

Explanation of Local Revenues: Termination of Tax Sales & Refunds- Under the bill, county auditors would be able to retain more of the purchase monies from purchasers that do not complete a tax sale than can be retained under current law. Under current law, when a retainer penalty is kept by the county in the event of a failed tax sale, those monies are deposited into the county general fund.

Background: There are two different types of tax sale "refunds" affected by the bill that for purpose of explanation will be described as: "Good Faith" and "Failure To Meet Notice Requirements."

"Good faith" occurs when a petitioner has made a bona fide attempt to comply with all statutory requirements for issuing a tax deed, but failed to comply. Additionally, the court would have to refuse to issue an order to the county auditor to complete the tax deed process due to the petitioner's failure to comply. (The bill would require the purchaser, purchaser's successors or assignees, or the purchaser of the certificate of sale to additionally file a claim with the county auditor within 30 days of a court order refusing the completion of the tax deed.)

"Failure to meet notice requirements" occurs when a petitioner fails to give notice that a petition to issue a tax deed has been filed to both the owner of record and persons with substantial property interest in the property.

Table A illustrates the proposed and current differences in the amount of the purchase price a county keeps from a failed tax sale.

Table A.

Tax Sale Refund Type	Current Law Amount	Proposed Amount
Good Faith (IC 6-1.1-25-4.6e)	County refunds purchase money plus 6% interest per annum.	County refunds 75% of purchase money.
Failure To Meet Notice Requirements (IC 6-1.1-25-4.6d)	County refunds 75% of purchase price.	County refunds 75% of amount of purchase price exceeding minimum acceptable bid.

This provision would apply to tax sales conducted, and failures of tax sale petitioners to fulfill tax sale requirements after June 30, 2007.

Civil Penalties for Failed Bids- Civil penalties are assessed on purchasers that fail to pay on a tax sale. The civil penalty equals 25% of the bid price. Under the bill, the penalties would be deposited into county general funds instead of the state Common School Fund.

(Revised) *Second Sales of Brownfields-* The bill would allow a county executive to re-offer for sale a property determined to be a brownfield by the executive that was offered for sale and did not sell during 2006. This provision would allow county executives to receive a lien on the brownfield properties in question, to have the same rights as a purchaser, and taxing units with interest in the taxes on the property would be charged with the full amount of the delinquent taxes due those units.

State Agencies Affected: Auditor of State.

Local Agencies Affected: Counties; Trial Courts.

Information Sources: Indiana Handbook of Taxes, Revenues, and Appropriations; Joe Edwards, SRI, 842-5818.

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