

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7536

BILL NUMBER: HB 1358

NOTE PREPARED: Mar 13, 2009

BILL AMENDED: Mar 12, 2009

SUBJECT: Eligibility for Purchasing Property at Tax Sales.

FIRST AUTHOR: Rep. Sullivan

FIRST SPONSOR: Sen. Miller

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) *Prohibition of Certain Persons & Tax Sales*- This bill applies restrictions on purchasing real property at a tax sale to a person who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or abandoned structure subject to an enforcement order concerning a nuisance or an unsafe building.

Cancellation of Sales- It requires a sheriff to cancel a sale if the person filing the praecipe (i.e. an order of sale) for sale fails to pay delinquent property taxes, special assessments, penalties, and interest or any redemption where a tax sale certificate is outstanding.

Tax List Date- The bill specifies the date by which the county treasurer or county executive certifies to the county auditor a list of real property that have unpaid property taxes, special assessments, and costs. It prohibits a political subdivision from certifying unpaid special assessments, fees, penalties, or charges for collection to the treasurer or auditor: (1) after the treasurer certifies to the county auditor the properties with unpaid assessments and taxes; and (2) before the date on which tax sale certificates on the properties are offered for sale.

Vacant or Abandoned Property: The bill provides that a person not having a contractual interest in a vacant or abandoned property commits criminal trespass if: (1) a law enforcement officer, who has a reasonable suspicion that criminal activity has occurred or is occurring, prohibits the person from entering or asks the person to leave the property; and (2) the person knowingly or intentionally enters or refuses to leave the property. It provides that a person commits criminal trespass if the person knowingly or intentionally enters a vacant or abandoned property subject to an abatement order after being denied entry by a court order issued to the person or issued to the general public by posting on or around the premises. It adds provisions regarding abatement of vacant and abandoned structures that a municipality or county may adopt by

ordinance. It provides that an owner of a vacant structure or an abandoned structure may be liable for civil penalties if the owner fails to act to change the status of the property as vacant or abandoned.

Municipal Civil Actions: The bill requires a court to issue a continuous enforcement order as part of an order issued for violation of an ordinance regulating or prohibiting a condition or use of property or engaging in conduct without a license or permit. It defines a "continuous enforcement order" as an order issued for compliance or abatement which remains in full force and effect on a property without obtaining additional compliance and abatement authority or orders for the same or similar violations. It provides that if a second or subsequent civil judgment is entered against a property owner (relating to the same or a different property) a court may order the owner to pay treble damages based on the costs of the ordered action.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Summary:* The bill would enable local taxing units to receive any property tax revenue due from foreclosed mortgaged properties even if the property in question was not sold at a tax sale. Under current law, the revenue would be received only after the property was sold. Under this bill, the individual filing the praecipe on the property is required to pay all delinquent property taxes, special assessments, penalties and interest that are due.

This bill also strengthens the authority of counties and municipalities in monitoring vacant and abandoned properties. It prohibits an individual who owns a vacant or abandoned structure that is in violation of health or building codes or have been cited as a drug nuisance or an indecent nuisance from purchasing the property at a tax sale. Additionally, the bill gives municipalities and counties the authority to impose fines and continuously monitor how the owners of these properties are managing them. This would probably result in a reduction of vacant and abandoned properties and a subsequent increase in revenue as these properties are developed and added to the tax base.

Prohibition of Certain Persons & Tax Sales- Under current law, an individual who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in building that is in violation of building or health codes in the county in which a tax sale is held is prohibited from purchasing tracts offered for sale (the individual may bid on a tract that the individual owns).

Tax List Date- Under the current statute the county treasurer has to certify to the county auditor on or before July 1 or 51 days after the tax payment due date a list of real property that have unpaid property taxes, special assessments and costs since the prior year's spring installment or before. The county executive has to certify to the county auditor by the same date a list of vacant or abandoned real property that have unpaid property taxes, special assessments and costs since the prior year's fall installment or before.

The bill would change the date to certify the property list with unpaid property taxes, special assessments, and costs on or after January 1 of each year but not later than 51 days after the first tax payment due date (usually July 1) of the tax sale year. Under the bill, once a county treasurer certifies the list, a political

subdivision is prohibited from placing any special assessments, fees, penalties, or charges for collection on these properties. Under the bill, the only charges allowable during the period between the date the treasurer certifies the list and the date on which the tax sale certificates are offered for sale are for real property tax payments and penalties that are due during this period. If local taxing units within a county could not place a lien on real property for services rendered, such as weeding, boarding, or sewer *after* the list is certified, these units may not be able to recoup their cost. Otherwise, these services may be stopped once the property has been certified.

Cancellation of Sales- Current law stipulates that the proceeds of the sale of foreclosed property at a tax sale be first used to offset expenses incurred in administering the sale (including the fee of the auctioneer), then used to pay off any property taxes that are due on the property sold and any amount of redemption where a certificate of sale is outstanding. After the payment of any property taxes and any amount of redemption, the remaining funds are applied to the payment of the principal due and other costs.

If a mortgaged property has been foreclosed and is being put up for sale, the proceeds of the tax sale would no longer be used to pay delinquent property taxes and special assessments. Under this bill, the party that filed a praecipe (usually the mortgagee) will be liable to pay all delinquent property taxes, special assessments, penalties and interest that are due and owing on the date of the sale or pay any amount of redemption if a tax sale certificate is outstanding. It requires a sheriff to cancel a sale if the person filing the praecipe for sale fails to pay delinquent property taxes, special assessments, penalties, and interest or any redemption where a tax sale certificate is outstanding.

Vacant or Abandoned Property: This proposal extends the purchasing limitation to vacant or abandoned structures that are in violation of health or building codes or have been cited as a drug nuisance or an indecent (i.e. prostitution) nuisance. The bill defines what an abandoned or vacant structure is and it authorizes a legislative body of a municipality or county to adopt an ordinance to administer the clauses in this bill governing abandoned or vacant structures. It specifies that the owner of property that remains vacant or abandoned for at least 90 consecutive calendar days may be liable for a civil penalties in the amount of \$500 per vacant or abandoned structure not exceed \$5,000 a year. The penalties would be waived if the owner provides and the enforcement authority accepts documented proof that the owner intends to take steps to ensure that the property would not be vacant or abandoned, and that the owner is current on all property taxes and special assessments.

If the structure continues to be vacant or abandoned beyond the initial 90 days, the enforcement authority is authorized to continue to assess additional penalties: \$1,000 per structure for the second 90 days the structure remains vacant or abandoned; \$1,500 per structure for the third 90 days the structure remains vacant or abandoned; \$2,000 for the fourth and each subsequent 90 days that the structure remains vacant or abandoned. The total fine should not exceed \$5,000 per structure per year.

Penalty Provision- Under current law an individual who intentionally violates the property of another that person commits a Class A misdemeanor or Class D felony depending on the type of property. This bill extends the current statute to include entry into an abandoned or vacant properties that are in violation of health or building codes or have been cited as a drug nuisance or an indecent (i.e. prostitution) nuisance. It stipulates that a person not having a contractual interest in a vacant or abandoned property commits criminal trespass if: (1) a law enforcement officer, who has a reasonable suspicion that criminal activity has occurred or is occurring, prohibits the person from entering or asks the person to leave the property; and (2) the person knowingly or intentionally enters or refuses to leave the property. It also provides that a person commits criminal trespass if the person knowingly or intentionally enters a vacant or abandoned property after being

denied entry by a court order issued to the person or issued to the general public.

Municipal Civil Actions: Under current law, a municipal corporation can file a civil action against a person who violates a building code. Sanctions include issuing an injunction, entering a judgment, ordering an inspection, imposing a fine, imposing court costs and fees and ordering the defendant to take corrective action. This bill extends the authority of the municipal corporation to impose sanctions. It authorizes the municipal authority to order that a property not in compliance with building codes to be demolished. Additionally, it requires a court to grant the municipal corporation a continuous enforcement order that once granted remains in full force on a property without the corporation having to return to court to seek additional sanctions against the property owner. The bill also provides that if a second or subsequent civil judgment is entered against a property owner (relating to the same or a different property) during any 2 year period a court may order the owner to pay treble damages based on the costs of the ordered action.

State Agencies Affected:

Local Agencies Affected: County Auditors, County Executives, Municipalities

Information Sources: Cindy Land, City of Indianapolis.

Fiscal Analyst: David Lusan, 317-232-9592; Chris Baker 317-232-9851.