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# SENATE BILL No. 234

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-31-9-8; IC 27-2-22; IC 36-1-2-13.5; IC 36-7-4; IC 36-8-23; IC 36-8.5.

**Synopsis:** Public safety funding. Eliminates the authority of a political subdivision to impose a property tax for public safety services. Imposes a public safety service fee instead of the property tax. Allows the imposition of an impact fee for capital improvements for public safety purposes. Requires a property insurer to pay a fire department reimbursement provided in a policy in response to the property owner's claim against the insurer. Allows a fire department to charge the property owner if the reimbursement is not paid.

**Effective:** July 1, 2009.

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January 7, 2009, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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# SENATE BILL No. 234



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

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

- 1 SECTION 1. IC 4-31-9-8 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2009]: Sec. 8. No tax or fee, except as provided
- 3 in this article, shall be assessed or collected from a permit holder by a
- 4 political subdivision having the power to assess or collect a tax or fee.
- 5 This section does not apply to **fees under IC 36-8.5** or real or personal
- 6 property taxes imposed by a local taxing unit.
- 7 SECTION 2. IC 27-2-22 IS ADDED TO THE INDIANA CODE AS
- 8 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY
- 9 1, 2009]:
- 10 **Chapter 22. Fire Department Reimbursement**
- 11 **Sec. 1. As used in this chapter, "fire department" means a paid**
- 12 **fire department or a volunteer fire department that provides fire**
- 13 **protection services to a political subdivision.**
- 14 **Sec. 2. As used in this chapter, "political subdivision" has the**
- 15 **meaning set forth in IC 36-1-2-13.**
- 16 **Sec. 3. As used in this chapter, "property insurance" means the**
- 17 **kind of insurance defined in Class 3 of IC 27-1-5-1.**



1           **Sec. 4. As used in this chapter, "reimbursement policy" means**  
2 **a property insurance policy issued or renewed after December 31,**  
3 **2009, that, in addition to coverage for loss or damage to property,**  
4 **provides for reimbursement to a fire department that incurs costs**  
5 **in providing fire protection services to the property for the event**  
6 **that results in the loss or damage.**

7           **Sec. 5. After December 31, 2009, in response to a claim:**

8           **(1) filed with an insurer that provides insurance under a**  
9 **reimbursement policy; and**

10           **(2) under which:**

11                   **(A) the insurer is liable to the claimant; or**

12                   **(B) the insurer would be liable to the claimant if the policy**  
13 **did not include a deductible;**

14 **the insurer shall pay to the fire department the reimbursement**  
15 **referred to in section 4 of this chapter regardless of whether the**  
16 **claim refers to that reimbursement.**

17           SECTION 3. IC 36-1-2-13.5 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
19 1, 2009]: **Sec. 13.5. "Public safety services" means an expenditure**  
20 **or activity to which IC 36-8.5 applies.**

21           SECTION 4. IC 36-7-4-1305 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1305. (a) As used in**  
23 **this series, "impact fee" means a monetary charge imposed on new**  
24 **development by a unit or fire protection district to defray or mitigate**  
25 **the capital costs of infrastructure that is required by, necessitated by,**  
26 **or needed to serve the new development.**

27           **(b) As used in this section, "capital costs" means the costs incurred**  
28 **to provide additional infrastructure to serve new development,**  
29 **including the following:**

30           **(1) Directly related costs of construction or expansion of**  
31 **infrastructure, including buildings and facilities used to provide**  
32 **public safety services, that is necessary to serve the new**  
33 **development, including reasonable design, survey, engineering,**  
34 **environmental, and other professional fees that are directly related**  
35 **to the construction or expansion.**

36           **(2) Directly related land acquisition costs, including costs**  
37 **incurred for the following:**

38                   **(A) Purchases of interests in land.**

39                   **(B) Court awards or settlements.**

40                   **(C) Reasonable appraisal, relocation service, negotiation**  
41 **service, title insurance, expert witness, attorney, and other**  
42 **professional fees that are directly related to the land**

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- 1 acquisition.
- 2 (3) Directly related debt service, subject to section 1330 of this
- 3 chapter.
- 4 (4) Directly related expenses incurred in preparing or updating the
- 5 comprehensive plan, ~~or the~~ zone improvement plan, **or a fire**
- 6 **protection district's capital improvement plan**, including all
- 7 administrative, consulting, attorney, and other professional fees,
- 8 as limited by section 1330 of this chapter.

9 SECTION 5. IC 36-7-4-1308 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1308. As used in this  
 11 series, "infrastructure" means the capital improvements that:

- 12 (1) comprise:
  - 13 (A) a sanitary sewer system or wastewater treatment facility;
  - 14 (B) a park or recreational facility;
  - 15 (C) a road or bridge;
  - 16 (D) a drainage or flood control facility; ~~or~~
  - 17 (E) a water treatment, water storage, or water distribution
  - 18 facility; **or**
  - 19 **(F) facilities used to provide public safety services;**
- 20 (2) are:
  - 21 (A) owned solely for a public purpose by:
    - 22 (i) a unit; ~~or~~
    - 23 (ii) a corporation created by a unit; or
    - 24 **(iii) a fire protection district;**
  - 25 (B) leased by a unit solely for a public purpose; ~~and or~~
  - 26 **(C) leased by a fire protection district solely for a public**
  - 27 **purpose; and**
- 28 (3) are included in:
  - 29 **(A) the zone improvement plan by the unit; or**
  - 30 **(B) the zone improvement plan by incorporation of the fire**
  - 31 **protection district's capital improvement plan under**
  - 32 **section 1313.5 of this chapter;**

33 of the impact zone in which the capital improvements are located.  
 34 The term includes site improvements or interests in real property  
 35 needed for a facility listed in subdivision (1).

36 SECTION 6. IC 36-7-4-1309 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1309. As used in this  
 38 series, "infrastructure type" means any of the following types of  
 39 infrastructure covered by an impact fee ordinance:

- 40 (1) Sewer **facilities**, which ~~includes~~ **include** sanitary sewerage  
 41 and wastewater treatment facilities.
- 42 (2) Recreation **facilities**, which ~~includes~~ **include** parks and other

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1 recreational facilities.

2 (3) ~~Road;~~ **Roads**, which ~~includes~~ **include** public ways and

3 bridges.

4 (4) **Drainage facilities**, which ~~includes~~ **include** drains and flood

5 control facilities.

6 (5) **Water facilities**, which ~~includes~~ **include** water treatment,

7 water storage, and water distribution facilities.

8 **(6) Public safety facilities, which include facilities for:**

9 **(A) fire protection; and**

10 **(B) police protection.**

11 SECTION 7. IC 36-7-4-1310 IS AMENDED TO READ AS

12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1310. As used in this

13 series, "infrastructure agency" means a political subdivision or an

14 agency of a political subdivision responsible for acquiring,

15 constructing, or providing a particular infrastructure type. **The term**

16 **includes a fire protection district.**

17 SECTION 8. IC 36-7-4-1313.5 IS ADDED TO THE INDIANA

18 CODE AS A **NEW SECTION** TO READ AS FOLLOWS

19 [EFFECTIVE JULY 1, 2009]: **Sec. 1313.5. (a) This section applies to**

20 **the adoption of an impact fee by a fire protection district.**

21 **(b) A plan commission shall notify each fire protection district**

22 **located in whole or in part within the jurisdiction of the plan**

23 **commission of any new development to be constructed within the**

24 **jurisdiction of the plan commission.**

25 **(c) A fire protection district may adopt a resolution that**

26 **establishes an impact fee imposed on new development. A**

27 **resolution adopted under this section must meet the requirements**

28 **of an impact fee ordinance under sections 1311, 1314, 1315, 1317,**

29 **1320, 1321, 1322, 1324, 1327, 1332, 1334, 1337, and 1338 of this**

30 **chapter. The resolution is effective upon its incorporation in an**

31 **ordinance adopted by a unit under subsection (f). The boundaries**

32 **of the impact zone are coterminous with the boundaries of the fire**

33 **protection district.**

34 **(d) The fire protection district may not adopt a resolution**

35 **establishing an impact fee, and a unit may not adopt an impact fee**

36 **ordinance incorporating the resolution, unless the fire protection**

37 **district has prepared or substantially updated a capital**

38 **improvement plan under section 1313.6 of this chapter during the**

39 **immediately preceding year. The fire protection district's capital**

40 **improvement plan shall be included in and considered a part of the**

41 **unit's zone improvement plan.**

42 **(e) A fire protection district may not amend a resolution**

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1 establishing an impact fee, and a unit may not adopt an impact fee  
2 ordinance incorporating the resolution, if the amendment makes  
3 a significant change in an impact fee schedule or formula, unless a  
4 new or substantially updated capital improvement plan has been  
5 approved by the fire protection district during the immediately  
6 preceding year. The fire protection district's updated capital  
7 improvement plan shall be included in and considered a part of the  
8 unit's zone improvement plan.

9 (f) If the unit determines that the resolution adopted by the fire  
10 protection district establishing an impact fee complies with the  
11 requirements set forth in this series, the unit shall adopt an impact  
12 fee ordinance that incorporates the terms of the fire protection  
13 district's resolution. If the unit adopts an impact fee for other  
14 infrastructure types in the impact zone, the ordinance must  
15 aggregate the parts of the impact fee attributable to the different  
16 infrastructure types as set forth in section 1311 of this chapter. If  
17 a part of the fire protection district lies outside the planning and  
18 zoning jurisdiction of the unit, the impact fee ordinance must be  
19 approved as set forth in section 1311 of this chapter.

20 (g) The unit shall notify the fire protection district of any change  
21 in a development plan that may result in an increase or a reduction  
22 in an impact fee of the fire protection district. The fire protection  
23 district may adopt a resolution changing the amount of the impact  
24 fee:

- 25 (1) as a result of a change in the development plan under
- 26 section 1322 of this chapter; or
- 27 (2) to provide a reduction in the fee for development that
- 28 provides affordable housing under section 1326 of this
- 29 chapter.

30 If the unit determines that the resolution adopted by the fire  
31 protection district complies with the requirements set forth in this  
32 series, the unit shall adopt an impact fee ordinance that  
33 incorporates the terms of the fire protection district's resolution.

34 (h) The unit shall assess and administer the collection of the  
35 impact fee adopted by the fire protection district under this series.

36 (i) A fee payer of an impact fee adopted by a fire protection  
37 district may petition the unit's impact fee review board under  
38 section 1336 of this chapter. A person may file an action under  
39 section 1339.5 of this chapter regarding an impact fee established  
40 by a fire protection district.

41 SECTION 9. IC 36-7-4-1313.6 IS ADDED TO THE INDIANA  
42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2009]: **Sec. 1313.6. (a) Before a fire**  
2 **protection district may adopt a resolution establishing an impact**  
3 **fee under section 1313.5 of this chapter, the board of trustees of the**  
4 **district must adopt a capital improvement plan.**

5 **(b) A capital improvement plan under this section must include**  
6 **at least the following components:**

- 7 **(1) Projected fire protection facility needs for:**
  - 8 **(A) the current year; and**
  - 9 **(B) at least the succeeding four (4) year period.**
- 10 **(2) Estimated capital costs for additional facility needs.**
- 11 **(3) Identification and general description of each project.**
- 12 **(4) The estimated total cost of each project.**
- 13 **(5) Identification of all sources of funds expected to be used**  
14 **for each project.**
- 15 **(6) The planning, development, and construction schedule of**  
16 **each project.**

17 **(c) A capital improvement plan must encompass a period of at**  
18 **least five (5) years.**

19 SECTION 10. IC 36-7-4-1318 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1318. (a) This section**  
21 **does not apply to an impact fee ordinance that imposes only a fire**  
22 **protection district impact fee under section 1313.5 of this chapter.**

23 ~~(a)~~ **(b)** A unit may not adopt an impact fee ordinance under section  
24 1311 of this chapter unless the unit has prepared or substantially  
25 updated a zone improvement plan for each impact zone during the  
26 immediately preceding one (1) year period. A single zone improvement  
27 plan may be used for two (2) or more infrastructure types if the impact  
28 zones for the infrastructure types are congruent.

29 ~~(b)~~ **(c)** Each zone improvement plan must contain the following  
30 information:

- 31 **(1) A description of the nature and location of existing**  
32 **infrastructure in the impact zone.**
- 33 **(2) A determination of the current level of service.**
- 34 **(3) Establishment of a community level of service. A unit may**  
35 **provide that the unit's current level of service is the unit's**  
36 **community level of service in the zone improvement plan.**
- 37 **(4) An estimate of the nature and location of development that is**  
38 **expected to occur in the impact zone during the following ten (10)**  
39 **year period.**
- 40 **(5) An estimate of the nature, location, and cost of infrastructure**  
41 **that is necessary to provide the community level of service for the**  
42 **development described in subdivision (4). The plan must indicate**

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1 the proposed timing and sequencing of infrastructure installation.

2 (6) A general description of the sources and amounts of money  
3 used to pay for infrastructure during the previous five (5) years.

4 ~~(c)~~ **(d)** If a zone improvement plan provides for raising the current  
5 level of service to a higher community level of service, the plan must:

6 (1) provide for completion of the infrastructure that is necessary  
7 to raise the current level of service to the community level of  
8 service within the following ten (10) year period;

9 (2) indicate the nature, location, and cost of infrastructure that is  
10 necessary to raise the current level of service to the community  
11 level of service; and

12 (3) identify the revenue sources and estimate the amount of the  
13 revenue sources that the unit intends to use to raise the current  
14 level of service to the community level of service for existing  
15 development. Revenue sources include, without limitation, any  
16 increase in revenues available from one (1) or more of the  
17 following:

18 (A) Adopting or increasing the following:

19 (i) The county adjusted gross income tax.

20 (ii) The county option income tax.

21 (iii) The county economic development income tax.

22 (iv) The annual license excise surtax.

23 (v) The wheel tax.

24 (B) Imposing the property tax rate per one hundred dollars  
25 (\$100) of assessed valuation that the unit may impose to create  
26 a cumulative capital improvement fund under IC 36-9-14.5 or  
27 IC 36-9-15.5.

28 (C) Transferring and reserving for infrastructure purposes  
29 other general revenues that are currently not being used to pay  
30 for capital costs of infrastructure.

31 (D) Dedicating and reserving for infrastructure purposes any  
32 newly available revenues, whether from federal or state  
33 revenue sharing programs or from the adoption of newly  
34 authorized taxes.

35 ~~(d)~~ **(e)** A unit must consult with a qualified engineer licensed to  
36 perform engineering services in Indiana when the unit is preparing the  
37 portions of the zone improvement plan described in subsections ~~(b)(1)~~;  
38 ~~(b)(2)~~; ~~(b)(5)~~; and ~~(c)(2)~~: **(c)(1)**, **(c)(2)**, **(c)(5)**, and **(d)(2)**.

39 ~~(e)~~ **(f)** A zone improvement plan and amendments and modifications  
40 to the zone improvement plan become effective after adoption as part  
41 of the comprehensive plan under the 500 SERIES of this chapter or  
42 adoption as part of the capital improvements program under section

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1 503(5) of this chapter. If the unit establishing the impact fee schedule  
2 or formula and establishing the zone improvement plan is different  
3 from the unit having planning and zoning jurisdiction, the unit having  
4 planning and zoning jurisdiction shall incorporate the zone  
5 improvement plan as part of the unit's comprehensive plan and capital  
6 improvement plan.

7 (f) (g) If a unit's zone improvement plan identifies revenue sources  
8 for raising the current level of service to the community level of  
9 service, impact fees may not be assessed or collected by the unit unless:

10 (1) before the effective date of the impact fee ordinance, the unit  
11 has available or has adopted the revenue sources that the zone  
12 improvement plan specifies will be in effect before the impact fee  
13 ordinance becomes effective; and

14 (2) after the effective date of the impact fee ordinance, the unit  
15 continues to provide adequate funds to defray the cost of raising  
16 the current level of service to the community level of service,  
17 using revenue sources specified in the zone improvement plan or  
18 revenue sources other than impact fees.

19 SECTION 11. IC 36-7-4-1319 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1319. (a) **This section  
21 does not apply to an impact fee ordinance that imposes only a fire  
22 protection district impact fee under section 1313.5 of this chapter.**  
23 A unit shall amend a zone improvement plan to make adjustments in  
24 the nature, location, and cost of infrastructure and the timing or  
25 sequencing of infrastructure installations to respond to the nature and  
26 location of development occurring in the impact zone. Appropriate  
27 planning and analysis shall be carried out before an amendment is  
28 made to a zone improvement plan.

29 (b) A unit may not amend an impact fee ordinance if the amendment  
30 makes a significant change in an impact fee schedule or formula or if  
31 the amendment designates an impact zone or alters the boundary of a  
32 zone, unless a new or substantially updated zone improvement plan has  
33 been approved within the immediately preceding one (1) year period.

34 SECTION 12. IC 36-7-4-1321 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1321. (a) An impact fee  
36 schedule or formula described in section 1320 of this chapter shall be  
37 prepared so that the impact fee resulting from the application of the  
38 schedule or formula to a development meets the requirements of this  
39 section. However, this section does not require that a particular  
40 methodology be used in preparing the schedule or formula.

41 (b) As used in this section, "impact costs" means a reasonable  
42 estimate, made at the time the impact fee is assessed, of **the following:**

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1 (1) The proportionate share of ~~the~~ costs incurred or to be incurred  
2 by the unit in providing infrastructure of the applicable type in the  
3 impact zone that are necessary to provide the community level of  
4 service for the development. The amount of impact costs may not  
5 include the costs of infrastructure of the applicable type:

6 (A) needed to raise the current level of service in the impact  
7 zone to the community level of service in the impact zone for  
8 development that is existing at the time the impact fee is  
9 assessed; or

10 (B) **that result from annexation by the unit of the territory**  
11 **in which the development occurs for which the impact fee**  
12 **is imposed.**

13 (2) **The proportionate share of costs incurred or to be**  
14 **incurred by a fire protection district that imposes an impact**  
15 **fee under section 1313.5 of this chapter to provide**  
16 **infrastructure of the applicable type in the impact zone that**  
17 **is required by, necessitated by, or needed to serve the new**  
18 **development.**

19 (c) As used in this section, "nonlocal revenue" means a reasonable  
20 estimate, made at the time the impact fee is assessed, of revenue that:

21 (1) will be received from any source (including but not limited to  
22 state or federal grants) other than a local government source; and

23 (2) is to be used within the impact zone to defray the capital costs  
24 of providing infrastructure of the applicable type.

25 (d) As used in this section, "impact deductions" means a reasonable  
26 estimate, made at the time the impact fee is assessed, of the amounts  
27 from the following sources that will be paid during the ten (10) year  
28 period after assessment of the impact fee to defray the capital costs of  
29 providing infrastructure of the applicable types to serve a development:

30 (1) Taxes levied by the unit, **by a fire protection district**, or on  
31 behalf of the unit by an applicable infrastructure agency that the  
32 fee payer and future owners of the development will pay for use  
33 within the geographic area of the unit.

34 (2) Charges and fees, other than fees paid by the fee payer under  
35 this chapter, that are imposed by any of the following for use  
36 within the geographic area of the unit:

37 (A) An applicable infrastructure agency.

38 (B) A governmental entity.

39 (C) A not-for-profit corporation created for governmental  
40 purposes.

41 Charges and fees covered by this subdivision include tap and  
42 availability charges paid for extension of services or the provision

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1 of infrastructure to the development.

2 (e) An impact fee on a development may not exceed:

3 (1) impact costs; minus

4 (2) the sum of nonlocal revenues and impact deductions.

5 SECTION 13. IC 36-7-4-1322 IS AMENDED TO READ AS

6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1322. (a) Except as

7 provided in subsection (b), an impact fee ordinance must require that,

8 if the fee payer requests, an impact fee on a development must be

9 assessed not later than thirty (30) days after the earlier of:

10 (1) the date the fee payer obtains an improvement location permit

11 for the development; or

12 (2) the date that the fee payer voluntarily submits to the unit a

13 development plan for the development and evidence that the

14 property is properly zoned for the proposed development. The

15 plan shall be in the form prescribed by the unit's zoning ordinance

16 and shall contain reasonably sufficient detail for the unit to

17 calculate the impact fee.

18 (b) An impact fee ordinance may provide that if a proposed

19 development is of a magnitude that will require revision of the zone

20 improvement plan in order to appropriately serve the new development,

21 the unit shall revise the unit's zone improvement plan and, **if**

22 **necessary, the fire protection district shall revise the fire protection**

23 **district's capital improvement plan if the capital improvement plan**

24 **is incorporated into the unit's zone improvement plan. The unit**

25 **shall assess an impact fee on a development not later than one hundred**

26 **eighty (180) days after the earlier of the following:**

27 (1) The date on which the fee payer obtains an improvement

28 location permit for the development.

29 (2) The date on which the fee payer submits to the unit a

30 development plan for a development and evidence that the

31 property is properly zoned for the proposed development. The

32 development plan must be in the form prescribed by the unit's

33 zoning ordinance and must contain reasonably sufficient detail for

34 the unit to calculate the impact fee.

35 (c) An impact fee assessed under ~~subsections~~ **subsection** (a) or (b)

36 may be increased only if the structural building permit has not been

37 issued for the development and the requirements of subsection (d) are

38 satisfied. In the case of a phased development, only a portion of an

39 impact fee assessed under subsection (a) or (b) that is attributable to

40 the portion of the development for which a permit has not been issued

41 may be increased if the requirements of subsection (d) are satisfied.

42 (d) Unless the improvement location permit or development plan

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1 originally submitted for the development is changed so that the amount  
2 of impact on infrastructure the development creates in the impact zone  
3 is significantly increased, an impact fee assessed under:

- 4 (1) subsection (a)(1) or (b)(1) may not be increased for the period
- 5 of the improvement location permit's validity; and
- 6 (2) subsection (a)(2) or (b)(2) may not be increased for three (3)
- 7 years.

8 (e) An impact fee assessed under subsection (a) or (b) shall be  
9 decreased if the improvement location permit or development plan  
10 originally submitted for the development is changed so that the amount  
11 of impact on infrastructure that the development creates in the impact  
12 zone is significantly decreased. If a change occurs in the permit or plan  
13 that results in a decrease in the amount of the impact fee after the fee  
14 has been paid, the unit that collected the fee shall immediately refund  
15 the amount of the overpayment to the fee payer.

16 (f) If the unit fails to assess an impact fee within the period required  
17 by subsection (a) or (b), the unit may not assess an impact fee on the  
18 development unless the development plan originally submitted for the  
19 development is materially and substantially changed.

20 (g) Notwithstanding other provisions in this chapter, a unit may not  
21 assess an impact fee against a development if:

- 22 (1) an improvement location permit has been issued for all or a
- 23 part of a development before adoption of an impact fee ordinance
- 24 that is in compliance with this chapter; and
- 25 (2) the development satisfies all of the following criteria:
  - 26 (A) The development is zoned for commercial or industrial use
  - 27 before January 1, 1991.
  - 28 (B) The development will consist primarily of new buildings
  - 29 or structures. As used in this clause, the term "new buildings
  - 30 or structures" does not include additions or expansions of
  - 31 existing buildings or structures.
  - 32 (C) The parts of the development for which a structural
  - 33 building permit has not been issued are owned or controlled by
  - 34 the person that owned or controlled the development on
  - 35 January 1, 1991.
  - 36 (D) A structural building permit is issued for the development
  - 37 not more than four (4) years after the effective date of the
  - 38 impact fee ordinance.
  - 39 (E) The development is part of a common scheme of
  - 40 development that:
    - 41 (i) involves land that is contiguous;
    - 42 (ii) involves a plan for development that includes a survey

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1 of the land, engineering drawings, and a site plan showing  
 2 the anticipated size, location, and use of buildings and the  
 3 anticipated location of streets, sewers, and drainage;  
 4 (iii) if plan approval is required, resulted in an application  
 5 being filed with an appropriate office, commission, or  
 6 official of the unit before January 1, 1991, that resulted or  
 7 may result in approval of any phase of the development plan  
 8 referred to in item (ii);  
 9 (iv) has been diligently pursued since January 1, 1991;  
 10 (v) resulted before January 1, 1991, in a substantial  
 11 investment in creating, publicizing, or implementing the  
 12 common scheme of development; and  
 13 (vi) involved the expenditure of significant funds before  
 14 January 1, 1991, for the provision of improvements, such as  
 15 roads, sewers, water treatment facilities, water storage  
 16 facilities, water distribution facilities, drainage systems, or  
 17 parks, that are on public lands or are available for other  
 18 development in the area.

19 (h) Notwithstanding any other provision of this chapter, this chapter  
 20 does not impair the validity of any contract between a unit and a fee  
 21 payer that was:

- 22 (1) entered into before January 1, 1991; and
- 23 (2) executed in consideration of zoning amendments or
- 24 annexations requested by the fee payer.

25 SECTION 14. IC 36-7-4-1330 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1330. An impact fee  
 27 collected under this series shall be used for the following purposes:

- 28 (1) Providing funds to an infrastructure agency for the provision
- 29 of new infrastructure that:
  - 30 (A) is necessary to serve the new development in the impact
  - 31 zone from which the fee was collected; and
  - 32 (B) is identified in:
    - 33 (i) the zone improvement plan **by the unit; or**
    - 34 (ii) the zone improvement plan **by incorporation of the**
    - 35 **fire protection district's capital improvement plan under**
    - 36 **section 1313.5 of this chapter.**
- 37 (2) In an amount not to exceed five percent (5%) of the annual
- 38 collections of an impact fee, for expenses incurred by the unit **or**
- 39 **fire protection district** that paid for the consulting services that
- 40 were used to establish the impact fee ordinance.
- 41 (3) Payment of a refund under section 1332 of this chapter.
- 42 (4) Payment of debt service on an obligation issued to provide

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infrastructure described in subdivision (1).  
SECTION 15. IC 36-7-4-1339 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1339. (a) This section applies to a person having an interest in real property that may be subject to an impact fee ordinance if the development occurs on the property.

- (b) A person may seek to:
  - (1) have a court determine under IC 34-26-1 any question of construction or validity arising under the impact fee ordinance; and
  - (2) obtain a declaration of rights, status, or other legal relations under the ordinance.

(c) **Except as provided in section 1339.5 of this chapter**, the validity of an impact fee ordinance adopted by a unit or the validity of the application of the ordinance in a specific impact zone may be challenged under this section on any of the following grounds:

- (1) The unit has not provided for a zone improvement plan in the unit's comprehensive plan.
- (2) The unit did not prepare or substantially update the unit's zone improvement plan in the year preceding the adoption of the impact fee ordinance.
- (3) The unit has not identified the revenue sources the unit intends to use to implement the zone improvement plan, if identification of the revenue sources is required under section ~~1318(c)~~ **1318(d)** of this chapter.
- (4) The unit has not complied with the requirements of section ~~1318(f)~~ **1318(g)** of this chapter.
- (5) The unit has not made adequate revenue available to complete infrastructure improvements identified in the unit's zone improvement plan.
- (6) The impact fee ordinance imposes fees on new development that will not create a need for additional infrastructure.
- (7) The impact fee ordinance imposes **fees** on new development ~~fees~~ that are excessive in relation to the infrastructure needs created by the new development.
- (8) The impact fee ordinance does not allow for reasonable credits to fee payers.
- (9) The unit imposed a prohibition or delay on new development to enable the unit to complete the adoption of an impact fee ordinance.
- (10) The unit otherwise fails to comply with this series in the adoption of an impact fee ordinance.

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1 SECTION 16. IC 36-7-4-1339.5 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2009]: **Sec. 1339.5. (a) This section applies to  
4 an impact fee established by a resolution of a fire protection  
5 district and incorporated in an ordinance adopted by a unit under  
6 section 1313.5 of this chapter.**

7 **(b) The validity of an impact fee ordinance adopted by a unit or  
8 the validity of the application of the ordinance in a specific impact  
9 zone may be challenged under this section on any of the following  
10 grounds:**

11 **(1) The fire protection district has not adopted a capital  
12 improvement plan.**

13 **(2) The fire protection district did not prepare or substantially  
14 update the fire protection district's capital improvement plan  
15 in the year preceding the adoption of the impact fee  
16 ordinance.**

17 **(3) The fire protection district has not made adequate revenue  
18 available to complete the infrastructure improvements  
19 identified in the fire protection district's capital improvement  
20 plan.**

21 **(4) The impact fee ordinance imposes fees on new  
22 development that will not create a need for additional  
23 infrastructure.**

24 **(5) The impact fee ordinance imposes fees on new  
25 development that are excessive in relation to the  
26 infrastructure needs created by the new development.**

27 **(6) The impact fee ordinance does not allow for reasonable  
28 credits to fee payers.**

29 **(7) The unit imposed a prohibition or delay on new  
30 development to enable the unit to complete the adoption of an  
31 impact fee ordinance.**

32 **(8) The unit or the fire protection district otherwise fails to  
33 comply with this series in the adoption of an impact fee  
34 ordinance.**

35 SECTION 17. IC 36-8-23 IS ADDED TO THE INDIANA CODE  
36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2009]:

38 **Chapter 23. Fire Department Reimbursement**

39 **Sec. 1. As used in this chapter, "fire department" means a paid  
40 fire department or a volunteer fire department that provides fire  
41 protection services to a political subdivision.**

42 **Sec. 2. After December 31, 2009, a fire department may charge**

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1 a property owner a fee of not more than five hundred dollars  
2 (\$500) for providing fire protection services to the owner's  
3 property if the fire department does not receive within ninety (90)  
4 days after providing the services reimbursement under IC 27-2-22  
5 for its costs in providing the services.

6 Sec. 3. A fire department that imposes a fee under section 2 of  
7 this chapter shall mail a statement to the property owner that  
8 includes:

- 9 (1) the amount of the fee;
- 10 (2) a due date not less than thirty (30) days after the date of  
11 mailing; and
- 12 (3) notice that delinquent fees are subject to enforcement  
13 under section 4 of this chapter.

14 Sec. 4. A delinquent fee under section 2 of this chapter is subject  
15 to enforcement in the same manner that public safety user fees are  
16 enforced under IC 36-8.5.

17 SECTION 18. IC 36-8.5 IS ADDED TO THE INDIANA CODE AS  
18 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
19 2009]:

20 **ARTICLE 8.5. PUBLIC SAFETY USER FEES**

21 **Chapter 1. Definitions**

22 **Sec. 1. For purposes of this article, "eligible entity" means a:**

- 23 (1) unit; or
- 24 (2) fire protection district.

25 **Chapter 2. Application**

26 **Sec. 1. This article applies to:**

- 27 (1) all eligible entities; and
- 28 (2) the owner of each:
  - 29 (A) lot;
  - 30 (B) parcel of property; or
  - 31 (C) building or other real property improvement;

32 subject to assessment under IC 6-1.1-4.

33 **Sec. 2. A fee imposed under this article applies to all property**  
34 **referred to in section 1(2) of this chapter that is subject to**  
35 **assessment under IC 6-1.1-4, regardless of whether the property is**  
36 **exempt from ad valorem property taxes.**

37 **Sec. 3. This article applies to an expenditure to establish,**  
38 **maintain, operate, provide facilities or equipment for, contract for,**  
39 **finance, or repay a judgment or other obligation related to any of**  
40 **the following:**

- 41 (1) A police and law enforcement system to preserve public  
42 peace and order.

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- 1           (2) A firefighting and fire prevention system.
- 2           (3) Emergency ambulance services (as defined in
- 3           IC 16-18-2-107), except as part of a levy for a county hospital
- 4           under IC 16-22 or a municipal hospital under IC 16-23.
- 5           (4) Emergency medical services (as defined in
- 6           IC 16-18-2-110), except as part of a levy for a county hospital
- 7           under IC 16-22 or a municipal hospital under IC 16-23.
- 8           (5) Emergency action (as defined in IC 13-11-2-65).

9           **Sec. 4. The activities and systems to which this article applies**  
 10 **include the following:**

- 11           (1) A communications system (as defined in IC 36-8-15-3) or
- 12           an enhanced emergency telephone system (as defined in
- 13           IC 36-8-16-2).
- 14           (2) Pension payments for any of the following:
  - 15           (A) A member of a fire department (as defined in
  - 16           IC 36-8-1-8) or any other employee of a fire department.
  - 17           (B) A member of a police department (as defined in
  - 18           IC 36-8-1-9), a police chief hired under a waiver under
  - 19           IC 36-8-4-6.5, or any other employee hired by a police
  - 20           department.
  - 21           (C) A county sheriff or any other member of the office of
  - 22           the county sheriff.
  - 23           (D) Other personnel employed to provide a service
  - 24           described in section 3 of this chapter.
- 25           (3) Operation of the following:
  - 26           (A) A county jail.
  - 27           (B) A juvenile detention center.

28           **Sec. 5. This article does not apply to expenditures related to the**  
 29 **following:**

- 30           (1) A court.
- 31           (2) A probation department of a court.
- 32           (3) Confinement, supervision, community correction services,
- 33           or other correctional services at a facility other than a county
- 34           jail or juvenile detention center for a person who has been:
  - 35           (A) diverted before a final hearing or trial under an
  - 36           agreement that:
    - 37           (i) is between the county prosecuting attorney and the
    - 38           person or the person's custodian, guardian, or parent;
    - 39           and
    - 40           (ii) provides for confinement, supervision, community
    - 41           correction services, or other correctional services instead
    - 42           of a final action described in clause (B) or (C);

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- 1 (B) convicted of a crime; or
- 2 (C) adjudicated a delinquent child or a child in need of
- 3 services in a facility.

4 **Chapter 3. Elimination of Property Tax Levies; Repayment of**  
 5 **Prior Debt**

6 **Sec. 1. An eligible entity may not impose an ad valorem**  
 7 **property tax levy to pay an expenditure under IC 36-8.5-2-3 or to**  
 8 **fund the activities and systems referred to in IC 36-8.5-2-4.**

9 **Sec. 2. (a) This article does not prohibit:**

- 10 (1) the consolidation of services to which this article applies
- 11 and other services payable from a property tax levy; or
- 12 (2) the funding of emergency ambulance services or
- 13 emergency medical services with a user fee imposed under
- 14 another statute.

15 (b) The legislative body of an eligible entity delivering the  
 16 consolidated services referred to in subsection (a)(1) shall allocate  
 17 the cost payable from property taxes based on the relative benefit  
 18 of the consolidated services to:

- 19 (1) police and fire services; and
- 20 (2) other purposes.

21 **Sec. 3. Section 1 of this chapter does not release or extinguish a**  
 22 **debt of an eligible entity that was incurred before January 1, 2010.**  
 23 **However, to the extent permitted under the Constitution of the**  
 24 **United States and the Constitution of the State of Indiana, a law**  
 25 **entitling a holder of an obligation to enforce a right to repayment**  
 26 **from property tax levies does not apply after December 31, 2009,**  
 27 **to a holder of an obligation that was created before January 1,**  
 28 **2010, but was incurred to finance an activity to which this article**  
 29 **applies.**

30 **Sec. 4. If an agreement with an eligible entity entered into**  
 31 **before January 1, 2010, or a judgment entered against an eligible**  
 32 **entity before January 1, 2010, requires the eligible entity to make**  
 33 **payments after December 31, 2009, from property tax levies that**  
 34 **are prohibited by section 1 of this chapter, the holders of the**  
 35 **obligations are entitled to payment from all other sources of**  
 36 **receipts that are available to the eligible entity after December 31,**  
 37 **2009, except receipts that by law or the terms of a grant are**  
 38 **restricted to another use.**

39 **Chapter 4. Distributions Based on Assessed Value**

40 **Sec. 1. Rates and charges imposed under this article are treated**  
 41 **as ad valorem property taxes for the purpose of distributions**  
 42 **under any law that computes a distribution on the assessed value**

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1 of the tangible property in an eligible entity or on the property tax  
2 levy imposed by the eligible entity.

3 Sec. 2. The department of local government finance shall  
4 provide the information for the department of state revenue and  
5 county auditors to make the distributions described in section 1 of  
6 this chapter.

7 Sec. 3. Money received under any law referred to in section 1 of  
8 this chapter shall be used to reduce the rates and charges imposed  
9 under IC 36-8.5-5.

10 Chapter 5. Rates and Charges

11 Sec. 1. Except as provided in section 12 of this chapter, rates and  
12 charges imposed by an eligible entity under this chapter apply to:

- 13 (1) the owner of property in the eligible entity; and
- 14 (2) if the eligible entity has entered into a contract to provide  
15 public safety services outside the eligible entity, the owner of  
16 property outside the eligible entity served under the contract.

17 Sec. 2. The rates and charges for public safety services may be  
18 determined based on the following:

- 19 (1) A flat charge for each:
  - 20 (A) lot;
  - 21 (B) parcel of property; or
  - 22 (C) building or other real property improvement.
- 23 (2) The amount of public safety services used.
- 24 (3) The relative police or fire risk, as determined by insurance  
25 ratings and other information available to the eligible entity.
- 26 (4) Whether the eligible entity is required to purchase or lease  
27 special facilities or equipment to deliver public safety services  
28 to the property.
- 29 (5) A combination of these or other factors that the eligible  
30 entity determines is necessary to establish just and equitable  
31 rates and charges.

32 Sec. 3. The rates and charges for public safety services do not  
33 have to be uniform throughout the eligible entity or for all users.  
34 The legislative body of an eligible entity may exercise reasonable  
35 discretion in:

- 36 (1) adopting different schedules of rates and charges; or
- 37 (2) making classifications in schedules of rates and charges:
  - 38 (A) based on variations in the costs of furnishing the  
39 services, including capital expenditures required, to  
40 various classes of users or to various locations in the  
41 eligible entity; or
  - 42 (B) where there are variations in the number of users in

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1                    various locations in the eligible entity.  
 2                    **Sec. 4. If services will not be provided until after a capital**  
 3 **improvement is completed, an eligible entity may bill and collect**  
 4 **rates and charges for the services to be provided after the contract**  
 5 **for construction of the capital improvement has been let and actual**  
 6 **work commenced in an amount sufficient to meet the interest on**  
 7 **the revenue bonds and other expenses payable before the**  
 8 **completion of the capital improvement.**

9                    **Sec. 5. Unless the eligible entity finds and directs otherwise,**  
 10 **public safety services are considered to benefit every:**

- 11                    (1) lot;
  - 12                    (2) parcel of land; or
  - 13                    (3) building or other real property improvement;
- 14 **in the eligible entity. The rates or charges shall be billed and**  
 15 **collected accordingly.**

16                    **Sec. 6. (a) The legislative body of an eligible entity shall, by**  
 17 **ordinance, establish just and equitable rates or charges for the use**  
 18 **of the public safety services provided by the eligible entity. The**  
 19 **rates or charges are payable by the owner of each lot, parcel of**  
 20 **land, or building or other real property improvement that:**

- 21                    (1) is in the eligible entity; or
  - 22                    (2) in any way uses or is served by the eligible entity.
- 23                    (b) **The legislative body of an eligible entity may periodically**  
 24 **change and readjust the rates or charges as provided in this article.**

25                    **Sec. 7. (a) Just and equitable rates and charges are those that**  
 26 **produce sufficient revenue to:**

- 27                    (1) pay all expenses incident to the delivery of public safety
- 28                    services;
- 29                    (2) provide a sinking fund for the liquidation of bonds or
- 30                    other evidence of indebtedness and reserves against default in
- 31                    the payment of interest and principal of bonds; and
- 32                    (3) provide adequate money to be used as working capital and
- 33                    money for making improvements, additions, extensions, and
- 34                    replacements.

35                    (b) **Rates and charges too low to meet the financial requirements**  
 36 **described in subsection (a) are unlawful. The initial rates and**  
 37 **charges established after notice and hearing under this article are**  
 38 **prima facie just and equitable.**

39                    **Sec. 8. The initial rates or charges may be established only after**  
 40 **a public hearing at which all:**

- 41                    (1) the property owners to be served by the eligible entity; and
- 42                    (2) others interested;

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have an opportunity to be heard concerning the proposed rates or charges.

**Sec. 9.** After introduction of the ordinance initially establishing rates or charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates or charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in the eligible entity. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

**Sec. 10. (a)** The ordinance establishing the initial rates or charges, either as:

- (1) originally introduced; or
  - (2) modified and amended;
- must be passed and put into effect after the hearing.

**(b)** A copy of the schedule of the rates and charges established must be:

- (1) kept on file in the principal office of the eligible entity; and
- (2) open to public inspection.

**Sec. 11. (a)** The rates or charges established for a class of users of property served shall be extended to cover any additional property served after the rates or charges are established that are in the same class without the necessity of hearing or notice.

**(b)** A change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established.

**Sec. 12.** An eligible entity may:

- (1) exempt or partially exempt from a rate or charge imposed under this article a person that provides to the person's property referred to in IC 36-8.5-2-1(2) at the person's expense any of the services or systems referred to in IC 36-8.5-2-3;
- (2) charge a person exempt under subdivision (1) for providing to the person any of the services or systems referred to in IC 36-8.5-2-3; and
- (3) contract with a person to:
  - (A) partially exempt the person from a rate or charge imposed under this article; and
  - (B) provide services and systems referred to in IC 36-8.5-2-3 to the person for a lower charge than would apply under subdivision (2).

**Chapter 6. Liens for Rates and Charges**

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1           **Sec. 1. The rates and charges made, assessed, or established**  
2 **under this article against:**  
3           **(1) a lot;**  
4           **(2) a parcel of land; or**  
5           **(3) a building or other real property improvement;**  
6 **in the eligible entity or served by the eligible entity are a lien**  
7 **against the lot, parcel of land, or building or other real property**  
8 **improvement.**

9           **Sec. 2. Except as provided in sections 5 and 6 of this chapter, a**  
10 **lien attaches at the time of the recording of the list in the county**  
11 **recorder's office as provided in IC 36-8.5-7. The lien:**  
12           **(1) is superior to and takes precedence over all other liens**  
13           **except the lien for taxes; and**  
14           **(2) shall be enforced under this article.**

15           **Sec. 3. If rates or charges are not paid within the time fixed by**  
16 **the eligible entity, the rates or charges become delinquent and a**  
17 **penalty of ten percent (10%) of the amount of the rates or charges**  
18 **attaches to the rates or charges. The eligible entity may recover:**  
19           **(1) the amount due;**  
20           **(2) the penalty; and**  
21           **(3) reasonable attorney's fees;**  
22 **in a civil action in the name of the eligible entity.**

23           **Sec. 4. The rates or charges, together with the penalty, are**  
24 **collectible in the manner provided by this article.**

25           **Sec. 5. (a) A rate or charge is not enforceable as a lien against a**  
26 **subsequent owner of property unless the lien for the rate or charge**  
27 **was recorded with the county recorder before the conveyance to**  
28 **the subsequent owner.**

29           **(b) If the property is conveyed before the lien can be filed, the**  
30 **officer of the eligible entity who is charged with the collection of**  
31 **the rate or charge shall notify the person that owned the property**  
32 **at the time the fee became payable. The notice must inform the**  
33 **person that payment, including penalty fees for delinquencies, is**  
34 **due not less than fifteen (15) days after the date of the notice. If**  
35 **payment is not received before one hundred eighty (180) days after**  
36 **the date of the notice have elapsed, the amount due may be**  
37 **expensed as a bad debt loss.**

38           **Sec. 6. (a) This section applies whenever a property owner has**  
39 **notified the eligible entity by certified mail with return receipt**  
40 **requested of the address to which the owner's notice is to be sent.**  
41           **(b) A lien does not attach against a lot, parcel of land, or**  
42 **building or other real property improvement occupied by someone**

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1 other than the owner unless the officer of the eligible entity who is  
2 charged with the collection of rates or charges notifies the owner  
3 of the property after the rates or charges have become sixty (60)  
4 days delinquent.

5 Sec. 7. (a) The eligible entity shall release:

6 (1) liens filed with the county recorder after the recorded date  
7 of conveyance of the property; and

8 (2) delinquent fees incurred by the seller;  
9 on receipt of a verified demand in writing from the purchaser.

10 (b) The demand must state the following:

11 (1) That the delinquent fees were not incurred by the  
12 purchaser as a user, lessee, or previous owner.

13 (2) That the purchaser has not been paid by the seller for the  
14 delinquent fees.

15 Chapter 7. Enforcement of Delinquencies

16 Sec. 1. This chapter applies only to rates or charges or penalties  
17 that have been due and unpaid for at least ninety (90) days.

18 Sec. 2. The officer of the eligible entity who is charged with the  
19 collection of the rates or charges shall enforce payment of the rates  
20 or charges. The officer shall, not more than two (2) times each  
21 year, prepare a list of the delinquent rates or charges, including the  
22 amount of the penalty, that are enforceable under this chapter. The  
23 list must include the following:

24 (1) The name of each owner of each lot or parcel of real  
25 property on which the rates or charges have become  
26 delinquent.

27 (2) The description of the property as shown by the records of  
28 the office of the county auditor.

29 (3) The amount of the rates or charges, together with the  
30 amount of the penalty.

31 Sec. 3. (a) The officer of the eligible entity shall record a copy of  
32 the list in the office of the county recorder.

33 (b) The county recorder shall charge a fee for recording the list  
34 in accordance with the fee schedule established in IC 36-2-7-10.

35 (c) After recording the list, the officer shall mail to each  
36 property owner on the list a notice stating that a lien against the  
37 owner's property has been recorded.

38 (d) This subsection applies only to a county that does not contain  
39 a consolidated city. A service charge of five dollars (\$5), which is  
40 in addition to the recording fee charged under this section and  
41 section 6 of this chapter, shall be added to each delinquent rate or  
42 charge that is recorded.

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1           **Sec. 4. (a) This section applies only to a county containing a**  
2 **consolidated city.**

3           **(b) Using the lists prepared and recorded under sections 2 and**  
4 **3 of this chapter, the officer of the eligible entity shall certify to the**  
5 **county auditor a list of the liens that remain unpaid according to**  
6 **the following schedule:**

7                   **(1) Liens recorded on or after August 1 of the preceding year**  
8 **and before February 1 of the current year shall be certified**  
9 **before March 1 of each year for collection in May of the same**  
10 **year.**

11                   **(2) Liens recorded on or after February 1 of the current year**  
12 **and before August 1 of the current year shall be certified**  
13 **before September 1 of each year for collection in November**  
14 **of the same year.**

15           **(c) The county and the officers and employees of the county are**  
16 **not liable for any material error in the information on the list**  
17 **prepared under subsection (b).**

18           **Sec. 5. (a) This section applies only to a county that does not**  
19 **contain a consolidated city.**

20           **(b) Using the lists prepared and recorded under sections 2 and**  
21 **3 of this chapter:**

22                   **(1) after April 1 of the preceding year; and**

23                   **(2) before April 1 of the current year;**

24 **the officer of the eligible entity shall before June 1 of each year**  
25 **certify to the county auditor a list of the liens that remain unpaid**  
26 **for collection in the next November.**

27           **(c) The county and the officers and employees of the county are**  
28 **not liable for any material error in the information on the list.**

29           **Sec. 6. (a) The officer of the eligible entity shall release a**  
30 **recorded lien when the:**

31                   **(1) delinquent rates or charges;**

32                   **(2) penalties;**

33                   **(3) service charges; and**

34                   **(4) recording fees;**

35 **have been fully paid.**

36           **(b) The county recorder shall charge a fee for releasing the lien**  
37 **in accordance with IC 36-2-7-10.**

38           **Sec. 7. (a) This subsection applies to a county that does not**  
39 **contain a consolidated city. On receipt of the list under section 5 of**  
40 **this chapter, the county auditor shall add a fifteen dollar (\$15)**  
41 **certification fee for each lot or parcel of real property on which**  
42 **rates or charges are delinquent. The certification fee is in addition**

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1 to all other fees and rates or charges. The county auditor shall  
2 immediately enter on the tax duplicate for the municipality the:

- 3 (1) delinquent rates or charges;  
4 (2) penalties;  
5 (3) service charges;  
6 (4) recording fees; and  
7 (5) certification fees;

8 that are due not later than the due date of the next November  
9 installment of property taxes.

10 (b) This subsection applies to a county having a consolidated  
11 city. On receipt of the list under section 4 of this chapter, the  
12 county auditor shall enter on the tax duplicate the:

- 13 (1) delinquent fees;  
14 (2) penalties;  
15 (3) service charges; and  
16 (4) recording fees;

17 that are due not later than the due date of the next installment of  
18 property taxes.

19 (c) The county treasurer shall include any unpaid charges for  
20 the:

- 21 (1) delinquent rate or charge;  
22 (2) penalty;  
23 (3) service charge;  
24 (4) recording fee; and  
25 (5) certification fee;

26 for each owner of each lot or parcel of real property at the time the  
27 next cycle's property tax installment is billed.

28 Sec. 8. (a) This section does not apply to a county containing a  
29 consolidated city.

30 (b) After June 1 of each year, the officer of the eligible entity  
31 may not collect or accept:

- 32 (1) delinquent rates or charges;  
33 (2) penalties;  
34 (3) service charges;  
35 (4) recording fees; or  
36 (5) certification fees;

37 from property owners whose property has been certified to the  
38 county auditor.

39 Sec. 9. If a:

- 40 (1) delinquent rate or charge;  
41 (2) penalty;  
42 (3) service charge;

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1 (4) recording fee; or  
2 (5) certification fee;  
3 is not paid, the county treasurer shall collect the unpaid money in  
4 the same way that delinquent property taxes are collected.

5 Sec. 10. (a) At the time of each semiannual tax settlement, the  
6 county treasurer shall certify to the county auditor all:

- 7 (1) rates or charges;
- 8 (2) fees; and
- 9 (3) penalties;

10 that have been collected.

11 (b) The county auditor shall:

- 12 (1) deduct the service charges and certification fees collected
- 13 by the county treasurer; and
- 14 (2) pay to the officer of the eligible entity the remaining fees
- 15 and penalties due the eligible entity.

16 (c) The county treasurer shall:

- 17 (1) retain the service charges and certification fees that have
- 18 been collected; and
- 19 (2) deposit the charges and fees in the county general fund.

20 Sec. 11. (a) This section applies to a:

- 21 (1) rate or charge;
- 22 (2) penalty; or
- 23 (3) service charge;

24 that was not recorded before a recorded conveyance.

25 (b) The:

- 26 (1) rate or charge;
- 27 (2) penalty; or
- 28 (3) service charge;

29 shall be removed from the tax roll for a purchaser who, in the  
30 manner prescribed by IC 36-8.5-6-7, files a verified demand with  
31 the county auditor.

32 Chapter 8. Foreclosure of Liens

33 Sec. 1. An eligible entity, as an additional or alternative remedy,  
34 may foreclose a lien established by this article as a means of  
35 collection of rates or charges, including the penalty on the rates or  
36 charges.

37 Sec. 2. (a) In all actions brought to foreclose the liens, the  
38 eligible entity is entitled to recover the following:

- 39 (1) The amount of the rates or charges.
- 40 (2) The penalty on the rates or charges.
- 41 (3) Reasonable attorney's fees.

42 (b) The court shall order that the sale be made without relief

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1 from valuation or appraisal statutes.  
 2 Sec. 3. Except as otherwise provided by this article, the  
 3 following apply in all actions to foreclose the liens:  
 4 (1) The laws concerning municipal public improvement  
 5 assessments.  
 6 (2) The rights, remedies, procedure, and relief granted the  
 7 parties to the action.  
 8 SECTION 19. [EFFECTIVE JULY 1, 2009] The department of  
 9 local government finance shall adjust under IC 6-1.1-18.5 the  
 10 maximum permissible levy of an eligible entity (as defined in  
 11 IC 36-8.5-1-1, as added by this act) to reflect the elimination of the  
 12 property tax levy for public safety services.  
 13 SECTION 20. [EFFECTIVE JULY 1, 2009] IC 36-8.5, as added by  
 14 this act, applies only to budget years beginning after December 31,  
 15 2009.

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