



Reprinted
February 23, 2010

ENGROSSED HOUSE BILL No. 1324

DIGEST OF HB 1324 (Updated February 22, 2010 3:11 pm - DI 73)

Citations Affected: IC 6-1.1.

Synopsis: Disposal of vacant lots in tax sale process. Permits a county to sell a vacant parcel acquired by the county in a tax sale to the owner of a contiguous residential parcel for \$1 if the contiguous parcel is entitled to the standard property tax deduction. Allows the county to establish criteria to identify vacant parcels eligible for sale. Establishes procedures for conduct of the sale, transfer of the vacant parcel, and consolidation of the vacant parcel with the contiguous parcel. Provides that the consolidated parcel is entitled to an exemption from property taxation in the amount of the assessed value of the vacant parcel at the time of consolidation until the earlier of the following: (1) the next transfer of title after the consolidation; or (2) five years after the transfer of the title to the successful applicant. Provides that a tax deed for real property sold in a tax sale: (1) does not operate to extinguish an easement recorded before the tax sale, regardless of whether the easement was taxed separately from the real property; and (2) conveys title subject to all easements recorded before the date of the tax sale.

Effective: July 1, 2010.

GiaQuinta, Sullivan

(SENATE SPONSORS — WYSS, ROGERS, BREAUX, TAYLOR)

January 13, 2010, read first time and referred to Committee on Local Government.
January 28, 2010, reported — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.
February 2, 2010, engrossed. Read third time, passed. Yeas 88, nays 7.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Local Government.
February 18, 2010, amended, reported favorably — Do Pass.
February 22, 2010, read second time, amended, ordered engrossed.

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EH 1324—LS 6521/DI 52+



Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1324

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

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

1 SECTION 1. IC 6-1.1-10-38, AS AMENDED BY P.L.2-2008,
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 38. This chapter does not contain all of the
4 property tax exemption provisions. The property taxation exemption
5 provisions include, but are not limited to, the following sections:
6 IC 4-20.5-14-3 ~~IC 20-14-7-3~~
7 IC 4-20.5-19 ~~IC 20-14-9-15~~
8 IC 5-1-4-26 ~~IC 20-14-10-14~~
9 IC 6-1.1-10-5 IC 20-47-2-21
10 **IC 6-1.1-24-6.8(k)** IC 20-47-3-15
11 IC 8-10-1-27 IC 23-7-7-3
12 IC 8-23-7-31 ~~IC 23-14-70-23~~
13 IC 8-15-2-12 IC 36-1-10-18
14 IC 8-21-9-31 IC 36-7-14-37
15 IC 10-18-2-22 IC 36-7-15.1-25
16 IC 10-18-1-36 IC 36-7-18-25
17 IC 10-18-3-12 IC 36-9-4-52

EH 1324—LS 6521/DI 52+



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- 1 IC 10-18-4-21 IC 36-9-11-10
- 2 IC 10-18-7-9 IC 36-9-11.1-11
- 3 IC 14-33-20-27 IC 36-9-13-36
- 4 IC 15-13-4-4 IC 36-9-13-37
- 5 IC 16-22-6-34 IC 36-9-30-31
- 6 IC 21-34-8-3 IC 36-10-8-18
- 7 IC 21-35-2-19 IC 36-10-9-18
- 8 IC 21-35-3-20

9 SECTION 2. IC 6-1.1-24-6.8 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2010]: **Sec. 6.8. (a) For purposes of this**
 12 **section, in a county containing a consolidated city "county**
 13 **executive" refers to the board of commissioners of the county as**
 14 **provided in IC 36-3-3-10.**

15 **(b) As used in this section, "vacant parcel" refers to a parcel**
 16 **that satisfies all the following:**

- 17 (1) A lien has been acquired on the parcel under section 6(a)
 18 of this chapter.
- 19 (2) The parcel is unimproved on the date the parcel is offered
 20 for sale under this chapter.
- 21 (3) The construction of a structure intended for residential use
 22 on the parcel is permitted by law.
- 23 (4) On the date the parcel is offered for sale under this
 24 chapter, the parcel is contiguous to one (1) or more parcels
 25 that satisfy the following:
 - 26 (A) One (1) or more of the following are located on the
 27 contiguous parcel:
 - 28 (i) A structure occupied for residential use.
 - 29 (ii) A structure used in conjunction with a structure
 30 occupied for residential use.
 - 31 (B) The contiguous parcel is eligible for the standard
 32 deduction under IC 6-1.1-12-37.

33 **(c) The county legislative body may, by ordinance, establish**
 34 **criteria for the identification of vacant parcels to be offered for**
 35 **sale under this section. The criteria may include the following:**

- 36 (1) Limitations on the use of the parcel under local zoning and
 37 land use requirements.
- 38 (2) Minimum parcel area sufficient for construction of
 39 improvements.
- 40 (3) Any other factor considered appropriate by the county
 41 legislative body.

42 **In a county containing a consolidated city, the county legislative**

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1 body may adopt an ordinance under this subsection only upon
2 recommendation by the board of commissioners provided in
3 IC 36-3-3-10.

4 (d) If the county legislative body adopts an ordinance under
5 subsection (c), the county executive shall for each tax sale:

6 (1) by resolution, identify each vacant parcel that the county
7 executive desires to sell under this section; and

8 (2) subject to subsection (e), give written notice to the owner
9 of record of each parcel referred to in subsection (b)(4) that
10 is contiguous to the vacant parcel.

11 (e) The notice under subsection (d)(2) with respect to each
12 vacant parcel must include at least the following:

13 (1) A description of the vacant parcel by:

14 (A) legal description; and

15 (B) parcel number or street address, or both.

16 (2) Notice that the county executive will accept written
17 applications from owners of parcels described in subsection
18 (b)(4) as provided in subsection (f).

19 (3) Notice of the deadline for applications referred to in
20 subdivision (2) and of the information to be included in the
21 applications.

22 (4) Notice that the vacant parcel will be sold to the successful
23 applicant for one dollar (\$1).

24 (5) Notice of the exemption provisions of subsection (l).

25 (f) To be eligible to purchase a vacant parcel under this section,
26 the owner of a contiguous parcel referred to in subsection (b)(4)
27 must file a written application with the county executive. The
28 application must:

29 (1) identify the vacant parcel that the applicant desires to
30 purchase; and

31 (2) include any other information required by the county
32 executive.

33 (g) If more than one (1) application to purchase a single vacant
34 parcel is filed with the county executive, the county executive shall
35 conduct a drawing between or among the applicants in which each
36 applicant has an equal chance to be selected as the transferee of the
37 vacant parcel.

38 (h) The county executive shall by resolution make a final
39 determination concerning the vacant parcels that are to be sold
40 under this section.

41 (i) After the final determination of vacant parcels to be sold
42 under subsection (h), the county executive shall:

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- 1 **(1) on behalf of the county, cause all delinquent taxes, special**
- 2 **assessments, penalties, interest, and costs of sale with respect**
- 3 **to the vacant parcels to be removed from the tax duplicate;**
- 4 **(2) give notice of the final determination to:**
 - 5 **(A) the successful applicant;**
 - 6 **(B) the county auditor; and**
 - 7 **(C) the township assessor, or the county assessor if there is**
 - 8 **no township assessor for the township.**
- 9 **(j) Upon receipt of notice under subsection (i)(2):**
 - 10 **(1) the county auditor shall:**
 - 11 **(A) collect the purchase price from each successful**
 - 12 **applicant; and**
 - 13 **(B) subject to subsection (k), prepare a deed transferring**
 - 14 **each vacant parcel to the successful applicant; and**
 - 15 **(2) the township assessor or county assessor shall consolidate**
 - 16 **each vacant parcel sold and the contiguous parcel owned by**
 - 17 **the successful applicant into a single parcel.**
- 18 **(k) The county auditor shall include in the deed prepared under**
- 19 **subsection (j)(1)(B) reference to the exemption under subsection (l).**
- 20 **(l) Except as provided in subsection (m), each consolidated**
- 21 **parcel referred to in subsection (j)(2) is entitled to an exemption**
- 22 **from property taxation beginning on the assessment date that next**
- 23 **succeeds the consolidation in the amount of the assessed value at**
- 24 **the time of consolidation of the vacant parcel that was subject to**
- 25 **the consolidation.**
- 26 **(m) The exemption under subsection (l) is terminated as of the**
- 27 **assessment date that next succeeds the earlier of the following:**
 - 28 **(1) Five (5) years after the transfer of title to the successful**
 - 29 **applicant.**
 - 30 **(2) The first transfer of title to the consolidated parcel that**
 - 31 **occurs after the consolidation.**
- 32 **SECTION 3. IC 6-1.1-25-4, AS AMENDED BY P.L.169-2006,**
- 33 **SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
- 34 **JULY 1, 2010]: Sec. 4. (a) The period for redemption of real property**
- 35 **sold under IC 6-1.1-24 is:**
 - 36 **(1) one (1) year after the date of sale;**
 - 37 **(2) one hundred twenty (120) days after the date of sale to a**
 - 38 **purchasing agency qualified under IC 36-7-17; or**
 - 39 **(3) one hundred twenty (120) days after the date of sale of real**
 - 40 **property on the list prepared under IC 6-1.1-24-1(a)(2) or**
 - 41 **IC 6-1.1-24-1.5.**
- 42 **(b) The period for redemption of real property:**

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1 (1) on which the county executive acquires a lien under
 2 IC 6-1.1-24-6; and
 3 (2) for which the certificate of sale is not sold under
 4 IC 6-1.1-24-6.1;
 5 is one hundred twenty (120) days after the date the county executive
 6 acquires the lien under IC 6-1.1-24-6.

7 (c) The period for redemption of real property:
 8 (1) on which the county executive acquires a lien under
 9 IC 6-1.1-24-6; and
 10 (2) for which the certificate of sale is sold under IC 6-1.1-24;
 11 is one hundred twenty (120) days after the date of sale of the certificate
 12 of sale under IC 6-1.1-24.

13 (d) When a deed for real property is executed under this chapter, the
 14 county auditor shall cancel the certificate of sale and file the canceled
 15 certificate in the office of the county auditor. If real property that
 16 appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale
 17 and an amount that is at least equal to the minimum sale price required
 18 under IC 6-1.1-24-5(e) is not received, the county auditor shall issue a
 19 deed to the real property, subject to this chapter.

20 (e) When a deed is issued to a county executive under this chapter,
 21 the taxes and special assessments for which the real property was
 22 offered for sale, and all subsequent taxes, special assessments, interest,
 23 penalties, and cost of sale shall be removed from the tax duplicate in
 24 the same manner that taxes are removed by certificate of error.

25 (f) A tax deed executed under this chapter vests in the grantee an
 26 estate in fee simple absolute, free and clear of all liens and
 27 encumbrances created or suffered before or after the tax sale except
 28 those liens granted priority under federal law and the lien of the state
 29 or a political subdivision for taxes and special assessments which
 30 accrue subsequent to the sale and which are not removed under
 31 subsection (e). However, **subject to subsection (g)**, the estate is
 32 subject to:

- 33 (1) all easements, covenants, declarations, and other deed
- 34 restrictions shown by public records;
- 35 (2) laws, ordinances, and regulations concerning governmental
- 36 police powers, including zoning, building, land use,
- 37 improvements on the land, land division, and environmental
- 38 protection; and
- 39 (3) liens and encumbrances created or suffered by the grantee.

40 **(g) A tax deed executed under this chapter for real property sold**
 41 **in a tax sale:**

- 42 (1) **does not operate to extinguish an easement recorded**

COPY



1 **before the date of the tax sale in the office of the recorder of**
 2 **the county in which the real property is located, regardless of**
 3 **whether the easement was taxed under this article separately**
 4 **from the real property; and**
 5 **(2) conveys title subject to all easements recorded before the**
 6 **date of the tax sale in the office of the recorder of the county**
 7 **in which the real property is located.**

8 ~~(g)~~ **(h)** A tax deed executed under this chapter is prima facie
 9 evidence of:

- 10 (1) the regularity of the sale of the real property described in the
- 11 deed;
- 12 (2) the regularity of all proper proceedings; and
- 13 (3) valid title in fee simple in the grantee of the deed.

14 ~~(h)~~ **(i)** A county auditor is not required to execute a deed to the
 15 county executive under this chapter if the county executive determines
 16 that the property involved contains hazardous waste or another
 17 environmental hazard for which the cost of abatement or alleviation
 18 will exceed the fair market value of the property. The county executive
 19 may enter the property to conduct environmental investigations.

20 ~~(i)~~ **(j)** If the county executive makes the determination under
 21 subsection ~~(h)~~ **(i)** as to any interest in an oil or gas lease or separate
 22 mineral rights, the county treasurer shall certify all delinquent taxes,
 23 interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk,
 24 following the procedures in IC 6-1.1-23-9. After the date of the county
 25 treasurer's certification, the certified amount is subject to collection as
 26 delinquent personal property taxes under IC 6-1.1-23. Notwithstanding
 27 IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an
 28 interest shall be zero (0) until production commences.

29 ~~(j)~~ **(k)** When a deed is issued to a purchaser of a certificate of sale
 30 sold under IC 6-1.1-24-6.1, the county auditor shall, in the same
 31 manner that taxes are removed by certificate of error, remove from the
 32 tax duplicate the taxes, special assessments, interest, penalties, and
 33 costs remaining due as the difference between the amount of the last
 34 minimum bid under IC 6-1.1-24-5(e) and the amount paid for the
 35 certificate of sale.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1324, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

SMITH V, Chair

Committee Vote: yeas 11, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1324 be amended to read as follows:

Page 2, line 11, after "(a)" insert **"For purposes of this section, in a county containing a consolidated city "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.**

(b)".

Page 2, delete lines 12 through 24, begin a new line blocked left and insert:

"vacant parcel" refers to a parcel that satisfies all the following:

- (1) A lien has been acquired on the parcel under section 6(a) of this chapter.**
- (2) The parcel is unimproved on the date the parcel is offered for sale under this chapter.**
- (3) The construction of a structure intended for residential use on the parcel is permitted by law.**
- (4) On the date the parcel is offered for sale under this chapter, the parcel is contiguous to one (1) or more parcels that satisfy the following:**
 - (A) One (1) or more of the following are located on the contiguous parcel:**
 - (i) A structure occupied for residential use.**
 - (ii) A structure used in conjunction with a structure occupied for residential use.**
 - (B) The contiguous parcel is eligible for the standard deduction under IC 6-1.1-12-37."**

Page 2, line 25, delete "(b)" and insert "(c)".

Page 2, line 25, delete "executive" and insert **"legislative body"**.

Page 2, line 33, delete "executive" and insert **"legislative body"**.

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Page 2, between lines 33 and 34, begin a new line blocked left and insert:

"In a county containing a consolidated city, the county legislative body may adopt an ordinance under this subsection only upon recommendation by the board of commissioners provided in IC 36-3-3-10."

Page 2, line 34, delete "(c)" and insert "(d)".

Page 2, line 34, delete "executive" and insert "legislative body".

Page 2, line 35, delete "(b)," and insert "(c),".

Page 2, line 38, delete "(d)," and insert "(e),".

Page 2, line 39, delete "(a)(4)" and insert "(b)(4)".

Page 2, line 41, delete "(d)" and insert "(e)".

Page 2, line 41, delete "(c)(2)" and insert "(d)(2)".

Page 3, delete lines 4 through 6, begin a new line block indented and insert:

"(2) Notice that the county executive will accept written applications from owners of parcels described in subsection (b)(4) as provided in subsection (f)."

Page 3, line 12, delete "(k)." and insert "(l)".

Page 3, line 13, delete "(e)" and insert "(f)".

Page 3, line 14, delete "(a)(4)" and insert "(b)(4)".

Page 3, line 21, delete "(f)" and insert "(g)".

Page 3, line 26, delete "(g)" and insert "(h)".

Page 3, line 29, delete "(h)" and insert "(i)".

Page 3, line 30, delete "(g)," and insert "(h),".

Page 3, line 39, delete "(i)" and insert "(j)".

Page 3, line 39, delete "(h)(2):" and insert "(i)(2):".

Page 4, line 1, delete "(j)," and insert "(k),".

Page 4, line 6, delete "(j)" and insert "(k)".

Page 4, line 7, delete "(i)(1)(B)" and insert "(j)(1)(B)".

Page 4, line 8, delete "(k)." and insert "(l)".

Page 4, line 9, delete "(k)" and insert "(l)".

Page 4, line 9, delete "(l)," and insert "(m),".

Page 4, line 10, delete "(i)(2)" and insert "(j)(2)".

Page 4, delete lines 15 through 17, begin a new paragraph and insert:

"(m) The exemption under subsection (l) is terminated as of the assessment date that next succeeds the earlier of the following:

(1) Five (5) years after the transfer of title to the successful applicant.

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(2) The first transfer of title to the consolidated parcel that occurs after the consolidation."

(Reference is to HB 1324 as printed January 29, 2010.)

PRYOR

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1324, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, after line 31, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-25-4, AS AMENDED BY P.L.169-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The period for redemption of real property sold under IC 6-1.1-24 is:

- (1) one (1) year after the date of sale;
- (2) one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17; or
- (3) one hundred twenty (120) days after the date of sale of real property on the list prepared under IC 6-1.1-24-1(a)(2) or IC 6-1.1-24-1.5.

(b) The period for redemption of real property:

- (1) on which the county executive acquires a lien under IC 6-1.1-24-6; and
- (2) for which the certificate of sale is not sold under IC 6-1.1-24-6.1;

is one hundred twenty (120) days after the date the county executive acquires the lien under IC 6-1.1-24-6.

(c) The period for redemption of real property:

- (1) on which the county executive acquires a lien under IC 6-1.1-24-6; and
- (2) for which the certificate of sale is sold under IC 6-1.1-24;

is one hundred twenty (120) days after the date of sale of the certificate of sale under IC 6-1.1-24.

(d) When a deed for real property is executed under this chapter, the county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor. If real property that appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale and an amount that is at least equal to the minimum sale price required

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under IC 6-1.1-24-5(e) is not received, the county auditor shall issue a deed to the real property, subject to this chapter.

(e) When a deed is issued to a county executive under this chapter, the taxes and special assessments for which the real property was offered for sale, and all subsequent taxes, special assessments, interest, penalties, and cost of sale shall be removed from the tax duplicate in the same manner that taxes are removed by certificate of error.

(f) A tax deed executed under this chapter vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law and the lien of the state or a political subdivision for taxes and special assessments which accrue subsequent to the sale and which are not removed under subsection (e). However, **subject to subsection (g)**, the estate is subject to:

- (1) all easements, covenants, declarations, and other deed restrictions shown by public records;
- (2) laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection; and
- (3) liens and encumbrances created or suffered by the grantee.

(g) A tax deed executed under this chapter for real property sold in a tax sale:

- (1) does not operate to extinguish an easement recorded before the date of the tax sale in the office of the recorder of the county in which the real property is located, regardless of whether the easement was taxed under this article separately from the real property; and**
- (2) conveys title subject to all easements recorded before the date of the tax sale in the office of the recorder of the county in which the real property is located.**

~~(g)~~ **(h)** A tax deed executed under this chapter is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

~~(h)~~ **(i)** A county auditor is not required to execute a deed to the county executive under this chapter if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation

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will exceed the fair market value of the property. The county executive may enter the property to conduct environmental investigations.

(i) (j) If the county executive makes the determination under subsection (h) (i) as to any interest in an oil or gas lease or separate mineral rights, the county treasurer shall certify all delinquent taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk, following the procedures in IC 6-1.1-23-9. After the date of the county treasurer's certification, the certified amount is subject to collection as delinquent personal property taxes under IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an interest shall be zero (0) until production commences.

(j) (k) When a deed is issued to a purchaser of a certificate of sale sold under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that taxes are removed by certificate of error, remove from the tax duplicate the taxes, special assessments, interest, penalties, and costs remaining due as the difference between the amount of the last minimum bid under IC 6-1.1-24-5(e) and the amount paid for the certificate of sale.

SECTION 4. IC 6-8.1-8-2, AS AMENDED BY P.L.111-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in IC 6-8.1-5-3, the department must issue a demand notice for the payment of a tax and any interest or penalties accrued on the tax, if a person files a tax return without including full payment of the tax or if the department, after ruling on a protest, finds that a person owes the tax before the department issues a tax warrant. The demand notice must state the following:

- (1) That the person has ten (10) days from the date the department mails the notice to either pay the amount demanded or show reasonable cause for not paying the amount demanded.
- (2) The statutory authority of the department for the issuance of a tax warrant.
- (3) The earliest date on which a tax warrant may be filed and recorded.
- (4) The statutory authority for the department to levy against a person's property that is held by a financial institution.
- (5) The remedies available to the taxpayer to prevent the filing and recording of the judgment.

If the department files a tax warrant in more than one (1) county, the department is not required to issue more than one (1) demand notice.

(b) If the person does not pay the amount demanded or show reasonable cause for not paying the amount demanded within the ten

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(10) day period, the department may issue a tax warrant for the amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable. When the department issues a tax warrant, a collection fee of ten percent (10%) of the unpaid tax is added to the total amount due.

(c) When the department issues a tax warrant, it may not file the warrant with the circuit court clerk of any county in which the person owns property until at least twenty (20) days after the date the demand notice was mailed to the taxpayer. The department may also send the warrant to the sheriff of any county in which the person owns property and direct the sheriff to file the warrant with the circuit court clerk:

- (1) at least twenty (20) days after the date the demand notice was mailed to the taxpayer; and
- (2) no later than five (5) days after the date the department issues the warrant.

(d) When the circuit court clerk receives a tax warrant from the department or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record, listing the following:

- (1) The name of the person owing the tax.
- (2) The amount of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs, and fees established under section 4(b) of this chapter when applicable.
- (3) The date the warrant was filed with the clerk.

(e) When the entry is made, the total amount of the tax warrant becomes a judgment against the person owing the tax. The judgment creates a lien in favor of the state that attaches to all the person's interest in any:

- (1) chose in action in the county; and
- (2) real or personal property in the county;

excepting only negotiable instruments not yet due.

(f) A judgment obtained under this section is valid for ten (10) years from the date the judgment is filed. ~~The department may renew the judgment for additional ten (10) year periods by filing an alias tax warrant with the circuit court clerk of the county in which the judgment previously existed.~~ **The department may not initiate a proceeding to foreclose on a lien described in subsection (e) more than ten (10) years after the judgment creating the lien is filed. If the department does not initiate proceedings to foreclose on the lien within ten (10) years after the judgment is filed, the lien shall be released.**

(g) A judgment arising from a tax warrant in a county may be

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released by the department:

- (1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or
- (2) if the department determines that the tax assessment or the issuance of the tax warrant was in error.

(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. The department shall mail the release as soon as possible but no later than seven (7) days after:

- (1) the determination by the department that the filing of the warrant was in error; and
- (2) the receipt of information by the department that the judgment has been recorded under subsection (d).

(i) If the department determines that a judgment described in subsection (h) is obstructing a lawful transaction, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the judgment was filed immediately upon making the determination.

(j) A release issued under subsection (h) or (i) must state that the filing of the tax warrant was in error. Upon the request of the taxpayer, the department shall mail a copy of a release issued under subsection (h) or (i) to each major credit reporting company located in each county where the judgment was filed.

(k) The commissioner shall notify each state agency or officer supplied with a tax warrant list of the issuance of a release under subsection (h) or (i).

(l) If the sheriff collects the full amount of a tax warrant, the sheriff shall disburse the money collected in the manner provided in section 3(c) of this chapter. If a judgment has been partially or fully satisfied by a person's surety, the surety becomes subrogated to the department's rights under the judgment. If a sheriff releases a judgment:

- (1) before the judgment is fully satisfied;
 - (2) before the sheriff has properly disbursed the amount collected;
- or

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(3) after the sheriff has returned the tax warrant to the department; the sheriff commits a Class B misdemeanor and is personally liable for the part of the judgment not remitted to the department."

and when so amended that said bill do pass.

(Reference is to HB 1324 as reprinted February 2, 2010.)

LAWSON C, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1324 be amended to read as follows:

Page 6, delete lines 36 through 42.

Delete pages 7 through 9.

Re-number all SECTIONS consecutively.

(Reference is to EHB 1324 as printed February 19, 2010.)

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