



January 26, 2010

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## SENATE BILL No. 223

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DIGEST OF SB 223 (Updated January 21, 2010 1:50 pm - DI 73)

**Citations Affected:** IC 6-1.1.

**Synopsis:** Mortgage deduction. Provides that the form prescribed by the department of local government finance (DLGF) to claim the mortgage deduction and the instructions for the form must both include a statement specifying that a person is not entitled to the deduction unless the person has a balance on the person's mortgage or contract indebtedness (including any home equity line of credit) that is the basis for the deduction. Requires the statement to specify the penalties for perjury. Requires the DLGF to develop a notice that must be displayed in the office of each county auditor concerning the application for the mortgage deduction.

**Effective:** July 1, 2010.

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**Holdman, Miller, Charbonneau**

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January 11, 2010, read first time and referred to Committee on Appropriations.  
January 25, 2010, amended, reported favorably — Do Pass.

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SB 223—LS 6878/DI 73+



January 26, 2010

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.

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## SENATE BILL No. 223



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 6-1.1-12-2, AS AMENDED BY P.L.182-2009(ss),  
2 SECTION 108, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in section  
4 17.8 of this chapter and subject to section 45 of this chapter, to qualify  
5 for the deduction provided by section 1 of this chapter a statement must  
6 be filed under subsection (b) or (c).

7 (b) Subject to subsection (c), to apply for the deduction under  
8 section 1 of this chapter with respect to real property, the person  
9 recording the mortgage, contract, or memorandum of the contract with  
10 the county recorder may file a written statement with the county  
11 recorder containing the information described in subsection (e)(1),  
12 (e)(2), (e)(3), (e)(4), (e)(6), (e)(7), and (e)(8). The statement must be  
13 prepared on the form prescribed by the department of local government  
14 finance and be signed by the property owner or contract purchaser  
15 under the penalties of perjury. The form must have a place for the  
16 county recorder to insert the record number and page where the  
17 mortgage, contract, or memorandum of the contract is recorded. Upon

SB 223—LS 6878/DI 73+



1 receipt of the form and the recording of the mortgage, contract, or  
 2 memorandum of the contract, the county recorder shall insert on the  
 3 form the record number and page where the mortgage, contract, or  
 4 memorandum of the contract is recorded and forward the completed  
 5 form to the county auditor. The county recorder may not impose a  
 6 charge for the county recorder's duties under this subsection. The  
 7 statement must be completed and dated in the calendar year for which  
 8 the person wishes to obtain the deduction and filed with the county  
 9 recorder on or before January 5 of the immediately succeeding calendar  
 10 year.

11 (c) With respect to:

12 (1) real property as an alternative to a filing under subsection (b);

13 or

14 (2) a mobile home that is not assessed as real property or a  
 15 manufactured home that is not assessed as real property;

16 to apply for a deduction under section 1 of this chapter, a person who  
 17 desires to claim the deduction may file a statement in duplicate, on  
 18 forms prescribed by the department of local government finance, with  
 19 the auditor of the county in which the real property, mobile home not  
 20 assessed as real property, or manufactured home not assessed as real  
 21 property is located. With respect to real property the statement must be  
 22 completed and dated in the calendar year for which the person wishes  
 23 to obtain the deduction and filed with the county auditor on or before  
 24 January 5 of the immediately succeeding calendar year. With respect  
 25 to a mobile home that is not assessed as real property or a  
 26 manufactured home that is not assessed as real property, the statement  
 27 must be filed during the twelve (12) months before March 31 of each  
 28 year for which the individual wishes to obtain the deduction. The  
 29 statement may be filed in person or by mail. If mailed, the mailing must  
 30 be postmarked on or before the last day for filing. In addition to the  
 31 statement required by this subsection, a contract buyer who desires to  
 32 claim the deduction must submit a copy of the recorded contract or  
 33 recorded memorandum of the contract, which must contain a legal  
 34 description sufficient to meet the requirements of IC 6-1.1-5, with the  
 35 first statement that the buyer files under this section with respect to a  
 36 particular parcel of real property.

37 (d) Upon receipt of:

38 (1) the statement under subsection (b); or

39 (2) the statement under subsection (c) and the recorded contract  
 40 or recorded memorandum of the contract;

41 the county auditor shall assign a separate description and identification  
 42 number to the parcel of real property being sold under the contract.

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1 (e) The statement referred to in subsections (b) and (c) must be  
2 verified under penalties for perjury. The statement must contain the  
3 following information:

4 (1) The balance of the person's mortgage or contract indebtedness  
5 on the assessment date of the year for which the deduction is  
6 claimed.

7 (2) The assessed value of the real property, mobile home, or  
8 manufactured home.

9 (3) The full name and complete residence address of the person  
10 and of the mortgagee or contract seller.

11 (4) The name and residence of any assignee or bona fide owner or  
12 holder of the mortgage or contract, if known, and if not known,  
13 the person shall state that fact.

14 (5) The record number and page where the mortgage, contract, or  
15 memorandum of the contract is recorded.

16 (6) A brief description of the real property, mobile home, or  
17 manufactured home which is encumbered by the mortgage or sold  
18 under the contract.

19 (7) If the person is not the sole legal or equitable owner of the real  
20 property, mobile home, or manufactured home, the exact share of  
21 the person's interest in it.

22 (8) The name of any other county in which the person has applied  
23 for a deduction under this section and the amount of deduction  
24 claimed in that application.

25 (f) The authority for signing a deduction application filed under this  
26 section may not be delegated by the real property, mobile home, or  
27 manufactured home owner or contract buyer to any person except upon  
28 an executed power of attorney. The power of attorney may be contained  
29 in the recorded mortgage, contract, or memorandum of the contract, or  
30 in a separate instrument.

31 (g) A closing agent, as defined in IC 6-1.1-12-43(a)(2), is not liable  
32 for any damages claimed by the property owner or contract purchaser  
33 because of:

34 (1) the closing agent's failure to provide the written statement  
35 described in subsection (b);

36 (2) the closing agent's failure to file the written statement  
37 described in subsection (b);

38 (3) any omission or inaccuracy in the written statement described  
39 in subsection (b) that is filed with the county recorder by the  
40 closing agent; or

41 (4) any determination made with respect to a property owner's or  
42 contract purchaser's eligibility for the deduction under section 1

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1 of this chapter.  
 2 (h) The county recorder may not refuse to record a mortgage,  
 3 contract, or memorandum because the written statement described in  
 4 subsection (b):  
 5 (1) is not included with the mortgage, contract, or memorandum  
 6 of the contract;  
 7 (2) does not contain the signatures required by subsection (b);  
 8 (3) does not contain the information described in subsection (e);  
 9 or  
 10 (4) is otherwise incomplete or inaccurate.  
 11 **(i) The form prescribed by the department of local government**  
 12 **finance under subsection (b) and the instructions for the form must**  
 13 **both include a statement:**  
 14 **(1) that explains that a person is not entitled to a deduction**  
 15 **under section 1 of this chapter unless the person has a balance**  
 16 **on the person's mortgage or contract indebtedness (including**  
 17 **any home equity line of credit) that is the basis for the**  
 18 **deduction; and**  
 19 **(2) that specifies the penalties for perjury.**  
 20 **(j) The department of local government finance shall develop a**  
 21 **notice:**  
 22 **(1) that must be displayed in a place accessible to the public in**  
 23 **the office of each county auditor;**  
 24 **(2) that includes the information described in subsection (i);**  
 25 **and**  
 26 **(3) that explains that the form prescribed by the department**  
 27 **of local government finance to claim the deduction under**  
 28 **section 1 of this chapter must be signed by the property owner**  
 29 **or contract purchaser under the penalties of perjury.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 223, 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 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12-2, AS AMENDED BY P.L. 182-2009(ss), SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in section 17.8 of this chapter and subject to section 45 of this chapter, to qualify for the deduction provided by section 1 of this chapter a statement must be filed under subsection (b) or (c).

(b) Subject to subsection (c), to apply for the deduction under section 1 of this chapter with respect to real property, the person recording the mortgage, contract, or memorandum of the contract with the county recorder may file a written statement with the county recorder containing the information described in subsection (e)(1), (e)(2), (e)(3), (e)(4), (e)(6), (e)(7), and (e)(8). The statement must be prepared on the form prescribed by the department of local government finance and be signed by the property owner or contract purchaser under the penalties of perjury. The form must have a place for the county recorder to insert the record number and page where the mortgage, contract, or memorandum of the contract is recorded. Upon receipt of the form and the recording of the mortgage, contract, or memorandum of the contract, the county recorder shall insert on the form the record number and page where the mortgage, contract, or memorandum of the contract is recorded and forward the completed form to the county auditor. The county recorder may not impose a charge for the county recorder's duties under this subsection. The statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county recorder on or before January 5 of the immediately succeeding calendar year.

(c) With respect to:

(1) real property as an alternative to a filing under subsection (b);  
or

(2) a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property;

to apply for a deduction under section 1 of this chapter, a person who desires to claim the deduction may file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not

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assessed as real property, or manufactured home not assessed as real property is located. With respect to real property the statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property.

(d) Upon receipt of:

- (1) the statement under subsection (b); or
- (2) the statement under subsection (c) and the recorded contract or recorded memorandum of the contract;

the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(e) The statement referred to in subsections (b) and (c) must be verified under penalties for perjury. The statement must contain the following information:

- (1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.
- (2) The assessed value of the real property, mobile home, or manufactured home.
- (3) The full name and complete residence address of the person and of the mortgagee or contract seller.
- (4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.
- (5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.
- (6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.
- (7) If the person is not the sole legal or equitable owner of the real

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property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(f) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

(g) A closing agent, as defined in IC 6-1.1-12-43(a)(2), is not liable for any damages claimed by the property owner or contract purchaser because of:

- (1) the closing agent's failure to provide the written statement described in subsection (b);
- (2) the closing agent's failure to file the written statement described in subsection (b);
- (3) any omission or inaccuracy in the written statement described in subsection (b) that is filed with the county recorder by the closing agent; or
- (4) any determination made with respect to a property owner's or contract purchaser's eligibility for the deduction under section 1 of this chapter.

(h) The county recorder may not refuse to record a mortgage, contract, or memorandum because the written statement described in subsection (b):

- (1) is not included with the mortgage, contract, or memorandum of the contract;
- (2) does not contain the signatures required by subsection (b);
- (3) does not contain the information described in subsection (e); or
- (4) is otherwise incomplete or inaccurate.

**(i) The form prescribed by the department of local government finance under subsection (b) and the instructions for the form must both include a statement:**

- (1) that explains that a person is not entitled to a deduction under section 1 of this chapter unless the person has a balance on the person's mortgage or contract indebtedness (including any home equity line of credit) that is the basis for the deduction; and**
- (2) that specifies the penalties for perjury.**

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**(j) The department of local government finance shall develop a notice:**

- (1) that must be displayed in a place accessible to the public in the office of each county auditor;**
- (2) that includes the information described in subsection (i); and**
- (3) that explains that the form prescribed by the department of local government finance to claim the deduction under section 1 of this chapter must be signed by the property owner or contract purchaser under the penalties of perjury."**

Delete pages 2 through 9.

and when so amended that said bill do pass.

(Reference is to SB 223 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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