

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:

- 1 Page 4, after line 31, begin a new paragraph and insert:
2 "SECTION 3. IC 6-1.1-25-4, AS AMENDED BY P.L.169-2006,
3 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2010]: Sec. 4. (a) The period for redemption of real property
5 sold under IC 6-1.1-24 is:
6 (1) one (1) year after the date of sale;
7 (2) one hundred twenty (120) days after the date of sale to a
8 purchasing agency qualified under IC 36-7-17; or
9 (3) one hundred twenty (120) days after the date of sale of real
10 property on the list prepared under IC 6-1.1-24-1(a)(2) or
11 IC 6-1.1-24-1.5.
12 (b) The period for redemption of real property:
13 (1) on which the county executive acquires a lien under
14 IC 6-1.1-24-6; and
15 (2) for which the certificate of sale is not sold under
16 IC 6-1.1-24-6.1;
17 is one hundred twenty (120) days after the date the county executive
18 acquires the lien under IC 6-1.1-24-6.
19 (c) The period for redemption of real property:
20 (1) on which the county executive acquires a lien under
21 IC 6-1.1-24-6; and

1 (2) for which the certificate of sale is sold under IC 6-1.1-24;
 2 is one hundred twenty (120) days after the date of sale of the certificate
 3 of sale under IC 6-1.1-24.

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

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

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

24 (1) all easements, covenants, declarations, and other deed
 25 restrictions shown by public records;

26 (2) laws, ordinances, and regulations concerning governmental
 27 police powers, including zoning, building, land use,
 28 improvements on the land, land division, and environmental
 29 protection; and

30 (3) liens and encumbrances created or suffered by the grantee.

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

33 **(1) does not operate to extinguish an easement recorded**
 34 **before the date of the tax sale in the office of the recorder of**
 35 **the county in which the real property is located, regardless of**
 36 **whether the easement was taxed under this article separately**
 37 **from the real property; and**

38 **(2) conveys title subject to all easements recorded before the**
 39 **date of the tax sale in the office of the recorder of the county**
 40 **in which the real property is located.**

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

1 (1) the regularity of the sale of the real property described in the
2 deed;

3 (2) the regularity of all proper proceedings; and

4 (3) valid title in fee simple in the grantee of the deed.

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

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

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

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

36 (1) That the person has ten (10) days from the date the department
37 mails the notice to either pay the amount demanded or show
38 reasonable cause for not paying the amount demanded.

39 (2) The statutory authority of the department for the issuance of
40 a tax warrant.

41 (3) The earliest date on which a tax warrant may be filed and
42 recorded.

1 (4) The statutory authority for the department to levy against a
2 person's property that is held by a financial institution.

3 (5) The remedies available to the taxpayer to prevent the filing
4 and recording of the judgment.

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

7 (b) If the person does not pay the amount demanded or show
8 reasonable cause for not paying the amount demanded within the ten
9 (10) day period, the department may issue a tax warrant for the amount
10 of the tax, interest, penalties, collection fee, sheriff's costs, clerk's costs,
11 and fees established under section 4(b) of this chapter when applicable.
12 When the department issues a tax warrant, a collection fee of ten
13 percent (10%) of the unpaid tax is added to the total amount due.

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

20 (1) at least twenty (20) days after the date the demand notice was
21 mailed to the taxpayer; and

22 (2) no later than five (5) days after the date the department issues
23 the warrant.

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

28 (1) The name of the person owing the tax.

29 (2) The amount of the tax, interest, penalties, collection fee,
30 sheriff's costs, clerk's costs, and fees established under section
31 4(b) of this chapter when applicable.

32 (3) The date the warrant was filed with the clerk.

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

37 (1) chose in action in the county; and

38 (2) real or personal property in the county;

39 excepting only negotiable instruments not yet due.

40 (f) A judgment obtained under this section is valid for ten (10) years
41 from the date the judgment is filed. ~~The department may renew the~~
42 ~~judgment for additional ten (10) year periods by filing an alias tax~~

1 warrant with the circuit court clerk of the county in which the judgment
 2 previously existed. **The department may not initiate a proceeding to**
 3 **foreclose on a lien described in subsection (e) more than ten (10)**
 4 **years after the judgment creating the lien is filed. If the**
 5 **department does not initiate proceedings to foreclose on the lien**
 6 **within ten (10) years after the judgment is filed, the lien shall be**
 7 **released.**

8 (g) A judgment arising from a tax warrant in a county may be
 9 released by the department:

10 (1) after the judgment, including all accrued interest to the date of
 11 payment, has been fully satisfied; or

12 (2) if the department determines that the tax assessment or the
 13 issuance of the tax warrant was in error.

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

19 (1) the determination by the department that the filing of the
 20 warrant was in error; and

21 (2) the receipt of information by the department that the judgment
 22 has been recorded under subsection (d).

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

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

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

36 (l) If the sheriff collects the full amount of a tax warrant, the sheriff
 37 shall disburse the money collected in the manner provided in section
 38 3(c) of this chapter. If a judgment has been partially or fully satisfied
 39 by a person's surety, the surety becomes subrogated to the department's
 40 rights under the judgment. If a sheriff releases a judgment:

41 (1) before the judgment is fully satisfied;

42 (2) before the sheriff has properly disbursed the amount collected;

1 or
2 (3) after the sheriff has returned the tax warrant to the department;
3 the sheriff commits a Class B misdemeanor and is personally liable for
4 the part of the judgment not remitted to the department."
 (Reference is to HB 1324 as reprinted February 2, 2010.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Lawson C, Chairperson