Reprinted
February 18, 2011

HOUSE BILL No. 1046

DIGEST OF HB 1046 (Updated February 17, 2011 10:39 am - DI 92)

Citations Affected: IC 4-22; IC 6-1.1.

Synopsis: Property tax deduction for new unsold residences. Provides a 100% property tax deduction to a residential builder for a single family residence, townhouse, or condominium that has never been occupied as a principal residence. The deduction terminates when title to the structure is transferred to the homeowner. The deduction applies for one assessment date for which the structure is assessed as partially completed and not more than three assessment dates for which the structure is assessed as fully completed. Provides that a residential builder may not claim deductions for more than three residences in Indiana per assessment date.

Effective: Upon passage; January 1, 2011 (retroactive).

Crouch, Cheatham, Morris, Clere, Cherry

January 5, 2011, read first time and referred to Committee on Ways and Means.
February 15, 2011, amended, reported — Do Pass.
February 17, 2011, read second time, amended, ordered engrossed.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1046

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

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2010, SECTION 8, AS AMENDED BY P.L.35-2010, SECTION 2, AND AS AMENDED BY P.L.113-2010, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, *IC 4-33-22-12,* or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

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(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.
(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.
(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.
(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.
(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).
(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).
(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).
(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.
(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.
(30) A rule adopted by the Indiana finance authority:
(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;
(B) under IC 8-15-2-17.2(a)(10):
(i) establishing enforcement procedures; and
(ii) making assessments for failure to pay required tolls;
(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or
(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.
(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.
~~*(32) An emergency rule adopted by the state athletic commission under IC 25-9-1-4.5.*~~
~~*(32)*~~ ~~*(33)*~~ **(32)** An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2,

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or IC 31-27-4-3.

~~(34)~~ *(33)* An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).

~~(35)~~ **(34)** *A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.*

(35) An emergency rule adopted by the department of local government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13),

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(a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 6-1.1-12.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]:

Chapter 12.8. Deduction for Residence in Inventory

Sec. 0.5. As used in this chapter, "affiliated group" has the meaning set forth in IC 6-1.1-12.6-0.5.

Sec. 1. As used in this chapter, "residence in inventory" means real property that:

(1) is not a model residence (as defined in IC 6-1.1-12.6-1); and

(2) consists of any of the following that has never been occupied as a principal residence:

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(A) A single family residence.
(B) A single family townhouse.
(C) A single family condominium unit.

Sec. 2. As used in this chapter, "residential builder" means a person that builds any of the following for sale in the ordinary course of the person's trade or business:

(1) Single family residences.
(2) Single family townhouses.
(3) Single family condominium units.

Sec. 3. (a) This chapter applies only to a residence in inventory that is first assessed as:

(1) a partially completed structure; or
(2) a fully completed structure;

for the assessment date in 2011 or a later year.

(b) Except as provided in subsections (c) and (d) and sections 5 and 6 of this chapter, and subject to section 7 of this chapter, a residential builder that is the owner of a residence in inventory is entitled to a deduction from the assessed value of the residence in inventory in the amount of one hundred percent (100%) of the assessed value of the residence in inventory for the following:

(1) Not more than one (1) assessment date for which the residence in inventory is assessed as a partially completed structure.
(2) The assessment date for which the residence in inventory is first assessed as a fully completed structure.
(3) The two (2) assessment dates that immediately succeed the assessment date referred to in subdivision (2).

(c) A deduction allowed for a residence in inventory under this chapter for a particular assessment date is terminated if title to the residence in inventory is transferred:

(1) after the assessment date of that year but before January 1 of the following year; and
(2) to a person for whom the real property does not qualify as a residence in inventory.

The county auditor shall immediately mail notice of the termination to the former owner, the property owner, and the township assessor. The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction.

(d) A deduction for a residence in inventory under this chapter does not apply for a particular assessment date if the residence in inventory is leased for any purpose for any part of the calendar

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year in which the assessment date occurs.

Sec. 4. (a) A property owner that qualifies for the deduction under this chapter must file a statement containing the information required by subsection (b) with the county auditor to claim the deduction for each assessment date for which the property owner wishes to receive the deduction in the manner prescribed in rules adopted under section 8 of this chapter. The township assessor shall verify each statement filed under this section, and the county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the person is claiming the deduction.

(2) The full name and complete business address of the person claiming the deduction.

(3) The complete address and a brief description of the real property for which the person is claiming the deduction.

Sec. 5. A property owner may not receive a deduction under this chapter with respect to a residence in inventory located in an allocation area (as defined in IC 6-1.1-21.2-3).

Sec. 6. A property owner that qualifies for a deduction for a year under this chapter and another statute with respect to the same residence in inventory may not receive a deduction under both statutes for the residence in inventory for that year.

Sec. 7. (a) If ownership of the residence in inventory changes:

(1) a new owner that is a residential builder for which the property is a residence in inventory may claim the deduction under this chapter; and

(2) the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied under section 3 of this chapter if ownership had not changed.

(b) A person who owns a residence in inventory and claims a deduction under this chapter shall provide to the county auditor a notice that:

(1) informs the auditor of a transfer of the ownership of the residence in inventory; and

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(2) indicates whether the new owner is eligible to receive a deduction under this chapter.

The notice required by this subsection must be submitted to the county auditor at the same time that a sales disclosure form is filed under IC 6-1.1-5.5.

Sec. 8. The department of local government finance shall adopt rules and may adopt emergency rules under IC 4-22-2 to implement this chapter.

Sec. 9. (a) Subject to section 10 of this chapter, a property owner is entitled to a deduction under this chapter for an assessment date for not more than three (3) residences in inventory in Indiana.

(b) The auditor of a county (referred to in this section as the "first county") with whom a statement is filed under section 4 of this chapter shall immediately prepare and transmit a copy of the statement to the auditor of any other county (referred to in this section as the "second county") if the property owner that claims the deduction owns or is buying a residence in inventory located in the second county.

(c) The county auditor of the second county shall note on the copy of the statement whether the property owner has claimed a deduction for the current year under section 4 of this chapter for a residence in inventory located in the second county. The county auditor shall then return the copy of the statement to the auditor of the first county.

Sec. 10. The aggregate number of deductions claimed under this chapter for a particular assessment date by the owners of residences in inventory who are a part of an affiliated group may not exceed three (3).

SECTION 3. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1046, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, between lines 34 and 35, begin a new paragraph and insert:

"**Sec. 0.5. As used in this chapter, "affiliated group" has the meaning set forth in IC 6-1.1-12.6-0.5.**".

Page 8, between lines 6 and 7, begin a new paragraph and insert:

"**Sec. 9. (a) Subject to section 10 of this chapter, a property owner is entitled to a deduction under this chapter for an assessment date for not more than three (3) residences in inventory in Indiana.**

(b) The auditor of a county (referred to in this section as the "first county") with whom a statement is filed under section 4 of this chapter shall immediately prepare and transmit a copy of the statement to the auditor of any other county (referred to in this section as the "second county") if the property owner that claims the deduction owns or is buying a residence in inventory located in the second county.

(c) The county auditor of the second county shall note on the copy of the statement whether the property owner has claimed a deduction for the current year under section 4 of this chapter for a residence in inventory located in the second county. The county auditor shall then return the copy of the statement to the auditor of the first county.

Sec. 10. The aggregate number of deductions claimed under this chapter for a particular assessment date by the owners of residences in inventory who are a part of an affiliated group may not exceed three (3).".

and when so amended that said bill do pass.

(Reference is to HB 1046 as introduced.)

ESPICH, Chair

Committee Vote: yeas 18, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1046 be amended to read as follows:

Page 6, line 10, delete "section" and insert "**chapter**".

(Reference is to HB 1046 as printed February 15, 2011.)

CROUCH

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