

# HOUSE BILL No. 1270

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-12; IC 6-1.1-20.6-2.

**Synopsis:** Taxation of cooperative housing corporations. Establishes standards for determining when a cooperative housing corporation is eligible for a standard deduction or a 1% circuit breaker credit.

**Effective:** March 1, 2011 (retroactive).

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**Pryor, Smith M**

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January 12, 2011, read first time and referred to Committee on Ways and Means.

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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. 1270



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 6-1.1-12-17.8, AS AMENDED BY  
2 P.L.182-2009(ss), SECTION 109, IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE MARCH 1, 2011 (RETROACTIVE)]: Sec.  
4 17.8. (a) An individual who receives a deduction provided under  
5 section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter in a particular  
6 year and who remains eligible for the deduction in the following year  
7 is not required to file a statement to apply for the deduction in the  
8 following year. However, for purposes of a deduction under section 37  
9 of this chapter, the county auditor may, in the county auditor's  
10 discretion, terminate the deduction for assessment dates after January  
11 15, 2012, if the individual does not comply with the requirement in  
12 IC 6-1.1-22-8.1(b)(9), as determined by the county auditor, before  
13 January 1, 2013. Before the county auditor terminates the deduction  
14 because the taxpayer claiming the deduction did not comply with the  
15 requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the  
16 county auditor shall mail notice of the proposed termination of the  
17 deduction to:



1 (1) the last known address of each person liable for any property  
 2 taxes or special assessment, as shown on the tax duplicate or  
 3 special assessment records; or

4 (2) the last known address of the most recent owner shown in the  
 5 transfer book.

6 (b) An individual who receives a deduction provided under section  
 7 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who  
 8 becomes ineligible for the deduction in the following year shall notify  
 9 the auditor of the county in which the real property, mobile home, or  
 10 manufactured home for which the individual claims the deduction is  
 11 located of the individual's ineligibility in the year in which the  
 12 individual becomes ineligible. An individual who becomes ineligible  
 13 for a deduction under section 37 of this chapter shall notify the county  
 14 auditor of the county in which the property is located in conformity  
 15 with section 37 of this chapter.

16 (c) The auditor of each county shall, in a particular year, apply a  
 17 deduction provided under section 1, 9, 11, 13, 14, 16, 17.4, or 37 of this  
 18 chapter to each individual who received the deduction in the preceding  
 19 year unless the auditor determines that the individual is no longer  
 20 eligible for the deduction.

21 (d) An individual who receives a deduction provided under section  
 22 1, 9, 11, 13, 14, 16, 17.4, or 37 of this chapter for property that is  
 23 jointly held with another owner in a particular year and remains eligible  
 24 for the deduction in the following year is not required to file a  
 25 statement to reapply for the deduction following the removal of the  
 26 joint owner if:

27 (1) the individual is the sole owner of the property following the  
 28 death of the individual's spouse;

29 (2) the individual is the sole owner of the property following the  
 30 death of a joint owner who was not the individual's spouse; or

31 (3) the individual is awarded sole ownership of the property in a  
 32 divorce decree.

33 However, for purposes of a deduction under section 37 of this chapter,  
 34 if the removal of the joint owner occurs before the date that a notice  
 35 described in IC 6-1.1-22-8.1(b)(9) is sent, the county auditor may, in  
 36 the county auditor's discretion, terminate the deduction for assessment  
 37 dates after January 15, 2012, if the individual does not comply with the  
 38 requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county  
 39 auditor, before January 1, 2013. Before the county auditor terminates  
 40 the deduction because the taxpayer claiming the deduction did not  
 41 comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January  
 42 1, 2013, the county auditor shall mail notice of the proposed

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1 termination of the deduction to the last known address of each person  
2 liable for any property taxes or special assessment, as shown on the tax  
3 duplicate or special assessment records or the last known address of the  
4 most recent owner shown in the transfer book.

5 (e) A trust entitled to a deduction under section 9, 11, 13, 14, 16,  
6 17.4, or 37 of this chapter for real property owned by the trust and  
7 occupied by an individual in accordance with section 17.9 of this  
8 chapter is not required to file a statement to apply for the deduction, if:

- 9 (1) the individual who occupies the real property receives a  
10 deduction provided under section 9, 11, 13, 14, 16, 17.4, or 37 of  
11 this chapter in a particular year; and
- 12 (2) the trust remains eligible for the deduction in the following  
13 year.

14 However, for purposes of a deduction under section 37 of this chapter,  
15 the individuals that qualify the trust for a deduction must comply with  
16 the requirement in IC 6-1.1-22-8.1(b)(9) before January 1, 2013.

17 (f) ~~A~~ **An eligible** cooperative housing corporation ~~(as defined in 26~~  
18 ~~U.S.C. 216)~~ that is entitled to a deduction under section 37 of this  
19 chapter in the immediately preceding calendar year for a homestead (as  
20 defined in section 37 of this chapter) is not required to file a statement  
21 to apply for the deduction for the current calendar year if the **eligible**  
22 cooperative housing corporation remains eligible for the deduction for  
23 the current calendar year. However, the county auditor may, in the  
24 county auditor's discretion, terminate the deduction for assessment  
25 dates after January 15, 2012, if the individual does not comply with the  
26 requirement in IC 6-1.1-22-8.1(b)(9), as determined by the county  
27 auditor, before January 1, 2013. Before the county auditor terminates  
28 a deduction because the taxpayer claiming the deduction did not  
29 comply with the requirement in IC 6-1.1-22-8.1(b)(9) before January  
30 1, 2013, the county auditor shall mail notice of the proposed  
31 termination of the deduction to:

- 32 (1) the last known address of each person liable for any property  
33 taxes or special assessment, as shown on the tax duplicate or  
34 special assessment records; or
- 35 (2) the last known address of the most recent owner shown in the  
36 transfer book.

37 (g) An individual who:

- 38 (1) was eligible for a homestead credit under IC 6-1.1-20.9  
39 (repealed) for property taxes imposed for the March 1, 2007, or  
40 January 15, 2008, assessment date; or
- 41 (2) would have been eligible for a homestead credit under  
42 IC 6-1.1-20.9 (repealed) for property taxes imposed for the March

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1           1, 2008, or January 15, 2009, assessment date if IC 6-1.1-20.9 had  
 2           not been repealed;  
 3           is not required to file a statement to apply for a deduction under section  
 4           37 of this chapter if the individual remains eligible for the deduction in  
 5           the current year. An individual who filed for a homestead credit under  
 6           IC 6-1.1-20.9 (repealed) for an assessment date after March 1, 2007 (if  
 7           the property is real property), or after January 1, 2008 (if the property  
 8           is personal property), shall be treated as an individual who has filed for  
 9           a deduction under section 37 of this chapter. However, the county  
 10          auditor may, in the county auditor's discretion, terminate the deduction  
 11          for assessment dates after January 15, 2012, if the individual does not  
 12          comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined  
 13          by the county auditor, before January 1, 2013. Before the county  
 14          auditor terminates the deduction because the taxpayer claiming the  
 15          deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9)  
 16          before January 1, 2013, the county auditor shall mail notice of the  
 17          proposed termination of the deduction to the last known address of  
 18          each person liable for any property taxes or special assessment, as  
 19          shown on the tax duplicate or special assessment records, or to the last  
 20          known address of the most recent owner shown in the transfer book.

21          (h) If a county auditor terminates a deduction because the taxpayer  
 22          claiming the deduction did not comply with the requirement in  
 23          IC 6-1.1-22-8.1(b)(9) before January 1, 2013, the county auditor shall  
 24          reinstate the deduction if the taxpayer provides proof that the taxpayer  
 25          is eligible for the deduction and is not claiming the deduction for any  
 26          other property.

27          (i) A taxpayer described in section 37(k) of this chapter is not  
 28          required to file a statement to apply for the deduction provided by  
 29          section 37 of this chapter for a calendar year beginning after December  
 30          31, 2008, if the property owned by the taxpayer remains eligible for the  
 31          deduction for that calendar year. However, the county auditor may  
 32          terminate the deduction for assessment dates after January 15, 2012, if  
 33          the individual residing on the property owned by the taxpayer does not  
 34          comply with the requirement in IC 6-1.1-22-8.1(b)(9), as determined  
 35          by the county auditor, before January 1, 2013. Before the county  
 36          auditor terminates a deduction because the individual residing on the  
 37          property did not comply with the requirement in IC 6-1.1-22-8.1(b)(9)  
 38          before January 1, 2013, the county auditor shall mail notice of the  
 39          proposed termination of the deduction to:

40               (1) the last known address of each person liable for any property  
 41               taxes or special assessment, as shown on the tax duplicate or  
 42               special assessment records; or

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1 (2) the last known address of the most recent owner shown in the  
2 transfer book.

3 SECTION 2. IC 6-1.1-12-37, AS AMENDED BY P.L.113-2010,  
4 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 MARCH 1, 2011 (RETROACTIVE)]: Sec. 37. (a) The following  
6 definitions apply throughout this section:

- 7 (1) "Dwelling" means any of the following:
  - 8 (A) Residential real property improvements that an individual
  - 9 uses as the individual's residence, including a house or garage.
  - 10 (B) A mobile home that is not assessed as real property that an
  - 11 individual uses as the individual's residence.
  - 12 (C) A manufactured home that is not assessed as real property
  - 13 that an individual uses as the individual's residence.

14 **(2) "Eligible cooperative housing corporation" means a**  
15 **cooperative housing corporation (as defined in 26 U.S.C. 216):**

- 16 **(1) that has title to property used as homesteads;**
- 17 **(2) that is majority owned by individuals who use the**  
18 **property as homesteads; and**
- 19 **(3) in which shares are bought and sold by individuals**  
20 **described in subdivision (2) at a price that is at least**  
21 **substantially equal to the true tax value (at the time of**  
22 **purchase) of the homesteads occupied by the individuals.**

23 **The term does not include a leasing or zero equity**  
24 **cooperative. For the purposes of this section, limited equity**  
25 **housing cooperative qualifies as an eligible cooperative**  
26 **housing corporation only if subdivisions (1) and (2) apply to**  
27 **the corporation and the sum of the equity in the homesteads**  
28 **owned by the corporation plus the selling price of shares in**  
29 **the corporation allowed under the restrictions imposed by the**  
30 **corporation on the selling price is at least substantially equal**  
31 **to the true tax value of the homesteads occupied as**  
32 **homesteads.**

33 (2) "Homestead" means an individual's principal place of  
34 residence:

- 35 (A) that is located in Indiana;
- 36 (B) that:
  - 37 (i) the individual owns;
  - 38 (ii) the individual is buying under a contract, recorded in the
  - 39 county recorder's office, that provides that the individual is
  - 40 to pay the property taxes on the residence;
  - 41 (iii) the individual is entitled to occupy as a
  - 42 tenant-stockholder (as defined in 26 U.S.C. 216) of a an

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1           **eligible** cooperative housing corporation; ~~(as defined in 26~~  
2           ~~U.S.C. 216);~~ or  
3           (iv) is a residence described in section 17.9 of this chapter  
4           that is owned by a trust if the individual is an individual  
5           described in section 17.9 of this chapter; and  
6           (C) that consists of a dwelling and the real estate, not  
7           exceeding one (1) acre, that immediately surrounds that  
8           dwelling.

9           Except as provided in subsection (k), the term does not include  
10          property owned by a corporation, partnership, limited liability  
11          company, or other entity not described in this subdivision.

12          (b) Each year a homestead is eligible for a standard deduction from  
13          the assessed value of the homestead for an assessment date. The  
14          deduction provided by this section applies to property taxes first due  
15          and payable for an assessment date only if an individual has an interest  
16          in the homestead described in subsection (a)(2)(B) on:  
17                (1) the assessment date; or  
18                (2) any date in the same year after an assessment date that a  
19                statement is filed under subsection (e) or section 44 of this  
20                chapter, if the property consists of real property.

21          Subject to subsection (c), the auditor of the county shall record and  
22          make the deduction for the individual or entity qualifying for the  
23          deduction.

24          (c) Except as provided in section 40.5 of this chapter, the total  
25          amount of the deduction that a person may receive under this section  
26          for a particular year is the lesser of:  
27                (1) sixty percent (60%) of the assessed value of the real property,  
28                mobile home not assessed as real property, or manufactured home  
29                not assessed as real property; or  
30                (2) forty-five thousand dollars (\$45,000).

31          (d) A person who has sold real property, a mobile home not assessed  
32          as real property, or a manufactured home not assessed as real property  
33          to another person under a contract that provides that the contract buyer  
34          is to pay the property taxes on the real property, mobile home, or  
35          manufactured home may not claim the deduction provided under this  
36          section with respect to that real property, mobile home, or  
37          manufactured home.

38          (e) Except as provided in sections 17.8 and 44 of this chapter and  
39          subject to section 45 of this chapter, an individual who desires to claim  
40          the deduction provided by this section must file a certified statement in  
41          duplicate, on forms prescribed by the department of local government  
42          finance, with the auditor of the county in which the homestead is

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- 1 located. The statement must include:
- 2 (1) the parcel number or key number of the property and the name
- 3 of the city, town, or township in which the property is located;
- 4 (2) the name of any other location in which the applicant or the
- 5 applicant's spouse owns, is buying, or has a beneficial interest in
- 6 residential real property;
- 7 (3) the names of:
- 8 (A) the applicant and the applicant's spouse (if any):
- 9 (i) as the names appear in the records of the United States
- 10 Social Security Administration for the purposes of the
- 11 issuance of a Social Security card and Social Security
- 12 number; or
- 13 (ii) that they use as their legal names when they sign their
- 14 names on legal documents;
- 15 if the applicant is an individual; or
- 16 (B) each individual who qualifies property as a homestead
- 17 under subsection (a)(2)(B) and the individual's spouse (if any):
- 18 (i) as the names appear in the records of the United States
- 19 Social Security Administration for the purposes of the
- 20 issuance of a Social Security card and Social Security
- 21 number; or
- 22 (ii) that they use as their legal names when they sign their
- 23 names on legal documents;
- 24 if the applicant is not an individual; and
- 25 (4) either:
- 26 (A) the last five (5) digits of the applicant's Social Security
- 27 number and the last five (5) digits of the Social Security
- 28 number of the applicant's spouse (if any); or
- 29 (B) if the applicant or the applicant's spouse (if any) do not
- 30 have a Social Security number, any of the following for that
- 31 individual:
- 32 (i) The last five (5) digits of the individual's driver's license
- 33 number.
- 34 (ii) The last five (5) digits of the individual's state
- 35 identification card number.
- 36 (iii) If the individual does not have a driver's license or a
- 37 state identification card, the last five (5) digits of a control
- 38 number that is on a document issued to the individual by the
- 39 federal government and determined by the department of
- 40 local government finance to be acceptable.

41 If a form or statement provided to the county auditor under this section,  
 42 IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or

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1 part or all of the Social Security number of a party or other number  
 2 described in subdivision (4)(B) of a party, the telephone number and  
 3 the Social Security number or other number described in subdivision  
 4 (4)(B) included are confidential. The statement may be filed in person  
 5 or by mail. If the statement is mailed, the mailing must be postmarked  
 6 on or before the last day for filing. The statement applies for that first  
 7 year and any succeeding year for which the deduction is allowed. With  
 8 respect to real property, the statement must be completed and dated in  
 9 the calendar year for which the person desires to obtain the deduction  
 10 and filed with the county auditor on or before January 5 of the  
 11 immediately succeeding calendar year. With respect to a mobile home  
 12 that is not assessed as real property, the person must file the statement  
 13 during the twelve (12) months before March 31 of the year for which  
 14 the person desires to obtain the deduction.

15 (f) If an individual who is receiving the deduction provided by this  
 16 section or who otherwise qualifies property for a deduction under this  
 17 section:

- 18 (1) changes the use of the individual's property so that part or all
- 19 of the property no longer qualifies for the deduction under this
- 20 section; or
- 21 (2) is no longer eligible for a deduction under this section on
- 22 another parcel of property because:
  - 23 (A) the individual would otherwise receive the benefit of more
  - 24 than one (1) deduction under this chapter; or
  - 25 (B) the individual maintains the individual's principal place of
  - 26 residence with another individual who receives a deduction
  - 27 under this section;

28 the individual must file a certified statement with the auditor of the  
 29 county, notifying the auditor of the change of use, not more than sixty  
 30 (60) days after the date of that change. An individual who fails to file  
 31 the statement required by this subsection is liable for any additional  
 32 taxes that would have been due on the property if the individual had  
 33 filed the statement as required by this subsection plus a civil penalty  
 34 equal to ten percent (10%) of the additional taxes due. The civil penalty  
 35 imposed under this subsection is in addition to any interest and  
 36 penalties for a delinquent payment that might otherwise be due. One  
 37 percent (1%) of the total civil penalty collected under this subsection  
 38 shall be transferred by the county to the department of local  
 39 government finance for use by the department in establishing and  
 40 maintaining the homestead property data base under subsection (i) and,  
 41 to the extent there is money remaining, for any other purposes of the  
 42 department. This amount becomes part of the property tax liability for

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1 purposes of this article.

2 (g) The department of local government finance shall adopt rules or  
3 guidelines concerning the application for a deduction under this  
4 section.

5 (h) This subsection does not apply to property in the first year for  
6 which a deduction is claimed under this section if the sole reason that  
7 a deduction is claimed on other property is that the individual or  
8 married couple maintained a principal residence at the other property  
9 on March 1 in the same year in which an application for a deduction is  
10 filed under this section or, if the application is for a homestead that is  
11 assessed as personal property, on March 1 in the immediately  
12 preceding year and the individual or married couple is moving the  
13 individual's or married couple's principal residence to the property that  
14 is the subject of the application. The county auditor may not grant an  
15 individual or a married couple a deduction under this section if:

16 (1) the individual or married couple, for the same year, claims the  
17 deduction on two (2) or more different applications for the  
18 deduction; and

19 (2) the applications claim the deduction for different property.

20 (i) The department of local government finance shall provide secure  
21 access to county auditors to a homestead property data base that  
22 includes access to the homestead owner's name and the numbers  
23 required from the homestead owner under subsection (e)(4) for the sole  
24 purpose of verifying whether an owner is wrongly claiming a deduction  
25 under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or  
26 IC 6-3.5.

27 (j) The department of local government finance shall work with  
28 county auditors to develop procedures to determine whether a property  
29 owner that is claiming a standard deduction or homestead credit is not  
30 eligible for the standard deduction or homestead credit because the  
31 property owner's principal place of residence is outside Indiana.

32 (k) As used in this section, "homestead" includes property that  
33 satisfies each of the following requirements:

34 (1) The property is located in Indiana and consists of a dwelling  
35 and the real estate, not exceeding one (1) acre, that immediately  
36 surrounds that dwelling.

37 (2) The property is the principal place of residence of an  
38 individual.

39 (3) The property is owned by an entity that is not described in  
40 subsection (a)(2)(B).

41 (4) The individual residing on the property is a shareholder,  
42 partner, or member of the entity that owns the property.

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1 (5) The property was eligible for the standard deduction under  
2 this section on March 1, 2009.

3 (l) If a county auditor terminates a deduction for property described  
4 in subsection (k) with respect to property taxes that are:

- 5 (1) imposed for an assessment date in 2009; and
- 6 (2) first due and payable in 2010;

7 on the grounds that the property is not owned by an entity described in  
8 subsection (a)(2)(B), the county auditor shall reinstate the deduction if  
9 the taxpayer provides proof that the property is eligible for the  
10 deduction in accordance with subsection (k) and that the individual  
11 residing on the property is not claiming the deduction for any other  
12 property.

13 (m) For assessments dates after 2009, the term "homestead"  
14 includes:

- 15 (1) a deck or patio;
- 16 (2) a gazebo; or
- 17 (3) another residential yard structure, as defined in rules adopted  
18 by the department of local government finance (other than a  
19 swimming pool);

20 that is assessed as real property and attached to the dwelling.

21 SECTION 3. IC 6-1.1-12-46 IS ADDED TO THE INDIANA CODE  
22 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
23 **MARCH 1, 2011 (RETROACTIVE)]: Sec. 46. An action taken by an**  
24 **assessing official for an assessment date before March 2, 2011, to**  
25 **deny a standard deduction under section 37 of this chapter (or any**  
26 **other tax benefit available to a homestead) to a cooperative housing**  
27 **corporation (as defined in 26 U.S.C. 216) that does not qualify as**  
28 **an eligible cooperative housing corporation (as defined in section**  
29 **37 of this chapter) is legalized and validated.**

30 SECTION 4. IC 6-1.1-20.6-2, AS AMENDED BY  
31 P.L.182-2009(ss), SECTION 151, IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE MARCH 1, 2011 (RETROACTIVE)]: Sec.  
33 2. ~~(a)~~ As used in this chapter, "homestead" refers to a homestead that  
34 is eligible for a standard deduction under IC 6-1.1-12-37.

35 ~~(b) The term includes a house or apartment that is owned or leased~~  
36 ~~by a cooperative housing corporation (as defined in 26 U.S.C. 216(b)).~~

37 SECTION 5. **An emergency is declared for this act.**

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