



Reprinted
January 25, 2012

SENATE BILL No. 142

DIGEST OF SB 142 (Updated January 24, 2012 2:46 pm - DI 73)

Citations Affected: IC 6-1.1.

Synopsis: Property tax issues. Provides that if a taxpayer wishes to have the income capitalization method or the gross rent multiplier method used in the initial assessment of the taxpayer's property, the taxpayer must submit the necessary information to the assessor not later than the March 1 assessment date. Specifies that the taxpayer is not prejudiced or restricted in filing an appeal, if the data is not submitted by March 1. Provides that a taxpayer filing a notice requesting a county property tax assessment board of appeals (county board) to review an assessment or deduction must pay to the county treasurer a filing fee of \$50. Specifies that only one filing fee must be paid for a review if the appeal involves contiguous parcels. Specifies that a taxpayer is not required to pay the filing fee if the review concerns the taxpayer's homestead and the taxpayer will represent himself or herself before the county board. Provides that the filing fee shall be refunded to the taxpayer if: (1) the taxpayer and the assessing official resolve the issues in the review; (2) the county board gives notice of its determination; or (3) the maximum time elapses for the county board to hold a hearing or to give notice of its determination and the taxpayer initiates a proceeding for review before the Indiana board of tax review (Indiana board). Specifies that a power of attorney expires 45 days after receiving a final determination, refund, or credit
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Effective: July 1, 2012.

Kenley, Hershman

January 4, 2012, read first time and referred to Committee on Appropriations.
January 19, 2012, amended, reported favorably — Do Pass.
January 24, 2012, read second time, amended, ordered engrossed.

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Digest Continued

in a proceeding or review, including any subsequent appeal from the final determination in the proceeding or review, or three years, whichever is earlier. Specifies that in the case of an assessment that is decreased by the Indiana board of tax review or the Indiana tax court, the taxpayer is not entitled to interest on the excess taxes paid by the taxpayer unless the taxpayer affirms, under penalty of perjury, that substantive evidence had been presented to the assessor or introduced by the taxpayer at a hearing before the county property tax assessment board of appeals. Provides that an appraisal may not be required by the county board or the assessor in a proceeding before the county board or in the preliminary informal meeting process involving the taxpayer and the assessor.

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Reprinted
January 25, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 142

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 6-1.1-4-39, AS AMENDED BY P.L.146-2008,
2 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 39. (a) For assessment dates after February 28,
4 2005, except as provided in subsections (c) and (e), the true tax value
5 of real property regularly used to rent or otherwise furnish residential
6 accommodations for periods of thirty (30) days or more and that has
7 more than four (4) rental units is the lowest valuation determined by
8 applying each of the following appraisal approaches:
9 (1) Cost approach that includes an estimated reproduction or
10 replacement cost of buildings and land improvements as of the
11 date of valuation together with estimates of the losses in value
12 that have taken place due to wear and tear, design and plan, or
13 neighborhood influences.
14 (2) Sales comparison approach, using data for generally
15 comparable property.

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- 1 (3) Income capitalization approach, using an applicable
 2 capitalization method and appropriate capitalization rates that are
 3 developed and used in computations that lead to an indication of
 4 value commensurate with the risks for the subject property use.
- 5 (b) The gross rent multiplier method is the preferred method of
 6 valuing:
- 7 (1) real property that has at least one (1) and not more than four
 8 (4) rental units; and
 9 (2) mobile homes assessed under IC 6-1.1-7.
- 10 (c) A township assessor (if any) or the county assessor is not
 11 required to appraise real property referred to in subsection (a) using the
 12 three (3) appraisal approaches listed in subsection (a) if the assessor
 13 and the taxpayer agree before notice of the assessment is given to the
 14 taxpayer under section 22 of this chapter to the determination of the
 15 true tax value of the property by the assessor using one (1) of those
 16 appraisal approaches.
- 17 (d) To carry out this section, the department of local government
 18 finance may adopt rules for assessors to use in gathering and
 19 processing information for the application of the income capitalization
 20 method and the gross rent multiplier method. **If a taxpayer wishes to**
 21 **have the income capitalization method or the gross rent multiplier**
 22 **method used in the initial formulation of the assessment of the**
 23 **taxpayer's property, the taxpayer must submit the necessary**
 24 **information to the assessor not later than the March 1 assessment**
 25 **date. However, the taxpayer shall not be prejudiced in any way, or**
 26 **restricted in pursuing an appeal, if the data is not submitted by**
 27 **March 1.** A taxpayer must verify under penalties for perjury any
 28 information provided to the township or county assessor for use in the
 29 application of either method. **Information provided to the assessor**
 30 **under this section is confidential as provided in IC 6-1.1-35-9.**
- 31 (e) The true tax value of low income rental property (as defined in
 32 section 41 of this chapter) is not determined under subsection (a). The
 33 assessment method prescribed in section 41 of this chapter is the
 34 exclusive method for assessment of that property. This subsection does
 35 not impede any rights to appeal an assessment.
- 36 SECTION 2. IC 6-1.1-15-1, AS AMENDED BY P.L.172-2011,
 37 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2012]: Sec. 1. (a) A taxpayer may obtain a review by the
 39 county board of a county or township official's action with respect to
 40 either or both of the following:
- 41 (1) The assessment of the taxpayer's tangible property.
 42 (2) A deduction for which a review under this section is

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1 authorized by any of the following:

2 (A) IC 6-1.1-12-25.5.

3 (B) IC 6-1.1-12-28.5.

4 (C) IC 6-1.1-12-35.5.

5 (D) IC 6-1.1-12.1-5.

6 (E) IC 6-1.1-12.1-5.3.

7 (F) IC 6-1.1-12.1-5.4.

8 (b) At the time that notice of an action referred to in subsection (a)
9 is given to the taxpayer, the taxpayer shall also be informed in writing
10 of:

11 (1) the opportunity for a review under this section, including a
12 preliminary informal meeting under subsection (h)(2) with the
13 county or township official referred to in this subsection; and

14 (2) the procedures the taxpayer must follow in order to obtain a
15 review under this section.

16 (c) In order to obtain a review of an assessment or deduction
17 effective for the assessment date to which the notice referred to in
18 subsection (b) applies, the taxpayer must:

19 (1) file a notice in writing with the county or township official
20 referred to in subsection (a) not later than forty-five (45) days
21 after the date of the notice referred to in subsection (b); **and**

22 (2) **pay a filing fee, if required by subsection (p). Only one (1)**
23 **filing fee must be paid for a review, if the appeal involves**
24 **contiguous parcels and all those parcels are covered by the**
25 **appeal.**

26 (d) A taxpayer may obtain a review by the county board of the
27 assessment of the taxpayer's tangible property effective for an
28 assessment date for which a notice of assessment is not given as
29 described in subsection (b). To obtain the review, the taxpayer must:

30 (1) file a notice in writing with the township assessor, or the
31 county assessor if the township is not served by a township
32 assessor; **and**

33 (2) **pay a filing fee, if required by subsection (p). Only one (1)**
34 **filing fee must be paid for a review, if the appeal involves**
35 **contiguous parcels and all those parcels are covered by the**
36 **appeal.**

37 The right of a taxpayer to obtain a review under this subsection for an
38 assessment date for which a notice of assessment is not given does not
39 relieve an assessing official of the duty to provide the taxpayer with the
40 notice of assessment as otherwise required by this article. The notice
41 to obtain a review must be filed not later than the later of:

42 (1) May 10 of the year; or

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1 (2) forty-five (45) days after the date of the tax statement mailed
 2 by the county treasurer, regardless of whether the assessing
 3 official changes the taxpayer's assessment.

4 (e) A change in an assessment made as a result of a notice for
 5 review filed by a taxpayer under subsection (d) after the time
 6 prescribed in subsection (d) becomes effective for the next assessment
 7 date. A change in an assessment made as a result of a notice for review
 8 filed by a taxpayer under subsection (c) or (d) remains in effect from
 9 the assessment date for which the change is made until the next
 10 assessment date for which the assessment is changed under this article.

11 (f) The written notice filed by a taxpayer under subsection (c) or (d)
 12 must include the following information:

- 13 (1) The name of the taxpayer.
 14 (2) The address and parcel or key number of the property.
 15 (3) The address and telephone number of the taxpayer.

16 (g) The filing of a notice under subsection (c) or (d):

- 17 (1) initiates a review under this section; and
 18 (2) constitutes a request by the taxpayer for a preliminary
 19 informal meeting with the official referred to in subsection (a).

20 (h) A county or township official who receives a notice for review
 21 filed by a taxpayer under subsection (c) or (d) shall:

- 22 (1) immediately forward the notice to the county board; and
 23 (2) attempt to hold a preliminary informal meeting with the
 24 taxpayer to resolve as many issues as possible by:

- 25 (A) discussing the specifics of the taxpayer's assessment or
 26 deduction;
 27 (B) reviewing the taxpayer's property record card;
 28 (C) explaining to the taxpayer how the assessment or
 29 deduction was determined;
 30 (D) providing to the taxpayer information about the statutes,
 31 rules, and guidelines that govern the determination of the
 32 assessment or deduction;
 33 (E) noting and considering objections of the taxpayer;
 34 (F) considering all errors alleged by the taxpayer; and
 35 (G) otherwise educating the taxpayer about:
 36 (i) the taxpayer's assessment or deduction;
 37 (ii) the assessment or deduction process; and
 38 (iii) the assessment or deduction appeal process.

39 (i) Not later than ten (10) days after the informal preliminary
 40 meeting, the official referred to in subsection (a) shall forward to the
 41 county auditor and the county board the results of the conference on a
 42 form prescribed by the department of local government finance that

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1 must be completed and signed by the taxpayer and the official. The
2 form must indicate the following:

3 (1) If the taxpayer and the official agree on the resolution of all
4 assessment or deduction issues in the review, a statement of:

5 (A) those issues; and

6 (B) the assessed value of the tangible property or the amount
7 of the deduction that results from the resolution of those issues
8 in the manner agreed to by the taxpayer and the official.

9 (2) If the taxpayer and the official do not agree on the resolution
10 of all assessment or deduction issues in the review:

11 (A) a statement of those issues; and

12 (B) the identification of:

13 (i) the issues on which the taxpayer and the official agree;
14 and

15 (ii) the issues on which the taxpayer and the official
16 disagree.

17 (j) If the county board receives a form referred to in subsection
18 (i)(1) before the hearing scheduled under subsection (k):

19 (1) the county board shall cancel the hearing;

20 (2) the county official referred to in subsection (a) shall give
21 notice to the taxpayer, the county board, the county assessor, and
22 the county auditor of the assessment or deduction in the amount
23 referred to in subsection (i)(1)(B); and

24 (3) if the matter in issue is the assessment of tangible property,
25 the county board may reserve the right to change the assessment
26 under IC 6-1.1-13.

27 (k) If:

28 (1) subsection (i)(2) applies; or

29 (2) the county board does not receive a form referred to in
30 subsection (i) not later than one hundred twenty (120) days after
31 the date of the notice for review filed by the taxpayer under
32 subsection (c) or (d);

33 the county board shall hold a hearing on a review under this subsection
34 not later than one hundred eighty (180) days after the date of that
35 notice. The county board shall, by mail, give notice of the date, time,
36 and place fixed for the hearing to the taxpayer and the county or
37 township official with whom the taxpayer filed the notice for review.
38 The taxpayer and the county or township official with whom the
39 taxpayer filed the notice for review are parties to the proceeding before
40 the county board.

41 (l) At the hearing required under subsection (k):

42 (1) the taxpayer may present the taxpayer's reasons for

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1 disagreement with the assessment or deduction; and
 2 (2) the county or township official with whom the taxpayer filed
 3 the notice for review must present:

- 4 (A) the basis for the assessment or deduction decision; and
 5 (B) the reasons the taxpayer's contentions should be denied.

6 (m) The official referred to in subsection (a) may not require the
 7 taxpayer to provide documentary evidence at the preliminary informal
 8 meeting under subsection (h). The county board may not require a
 9 taxpayer to file documentary evidence or summaries of statements of
 10 testimonial evidence before the hearing required under subsection (k).
 11 If the action for which a taxpayer seeks review under this section is the
 12 assessment of tangible property, the taxpayer is not required to have an
 13 appraisal of the property in order to do the following:

- 14 (1) Initiate the review.
 15 (2) Prosecute the review.

16 (n) The county board shall prepare a written decision resolving all
 17 of the issues under review. The county board shall, by mail, give notice
 18 of its determination not later than one hundred twenty (120) days after
 19 the hearing under subsection (k) to the taxpayer, the official referred to
 20 in subsection (a), the county assessor, and the county auditor.

21 (o) If the maximum time elapses:

- 22 (1) under subsection (k) for the county board to hold a hearing; or
 23 (2) under subsection (n) for the county board to give notice of its
 24 determination;

25 the taxpayer may initiate a proceeding for review before the Indiana
 26 board by taking the action required by section 3 of this chapter at any
 27 time after the maximum time elapses.

28 **(p) This subsection applies to a notice filed after June 30, 2012,**
 29 **under subsection (c) or (d) requesting the review of an assessment**
 30 **or deduction. At the time a taxpayer files the notice under**
 31 **subsection (c) or (d), the taxpayer shall pay to the county treasurer**
 32 **a filing fee of fifty dollars (\$50). However, a taxpayer is not**
 33 **required to pay the filing fee if the notice filed by the taxpayer**
 34 **concerns the assessment of or a deduction from the assessed value**
 35 **of the taxpayer's homestead (as defined in IC 6-1.1-12-37) and the**
 36 **taxpayer will represent himself or herself before the county board.**
 37 **The county treasurer to whom the taxpayer paid the filing fee shall**
 38 **refund the filing fee to the taxpayer upon the occurrence of any of**
 39 **the following:**

- 40 (1) **The taxpayer and the assessing official agree on the**
 41 **resolution of all assessment or deduction issues in the review.**
 42 (2) **The county board gives notice of its determination.**



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1 **(3) The maximum time elapses:**

2 **(A) under subsection (k) for the county board to hold a**
 3 **hearing; or**

4 **(B) under subsection (n) for the county board to give notice**
 5 **of its determination;**

6 **and the taxpayer initiates a proceeding for review before the**
 7 **Indiana board.**

8 SECTION 3. IC 6-1.1-15-3.5 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2012]: **Sec. 3.5. A power of attorney that is**
 11 **executed by a taxpayer and after June 30, 2012, is filed by a tax**
 12 **representative (as defined in 50 IAC 15-5-1, as effective July 1,**
 13 **2012) with the county board or the Indiana board:**

14 **(1) in a proceeding under this chapter; or**

15 **(2) as part of a notice or petition requesting a review under**
 16 **this chapter;**

17 **is not valid unless the power of attorney specifies that it expires**
 18 **forty-five (45) days after receiving a final determination, refund,**
 19 **or credit in the proceeding or review, including any subsequent**
 20 **appeal from the final determination in the proceeding or review,**
 21 **or three (3) years after the power of attorney is executed,**
 22 **whichever is earlier.**

23 SECTION 4. IC 6-1.1-37-11 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 11. (a) If a taxpayer is**
 25 **entitled to a property tax refund or credit because an assessment is**
 26 **decreased, the taxpayer shall also be paid, or credited with, interest on**
 27 **the excess taxes that he the taxpayer paid at the rate of four percent**
 28 **(4%) per annum. However, in the case of an assessment that is**
 29 **decreased by the Indiana board or the Indiana tax court, the**
 30 **taxpayer is not entitled to interest on the excess taxes unless the**
 31 **taxpayer affirms, under penalty of perjury, that substantive**
 32 **evidence supporting the taxpayer's position had been:**

33 **(1) presented by the taxpayer to the assessor before; or**

34 **(2) introduced by the taxpayer at;**

35 **the hearing before the county property tax assessment board of**
 36 **appeals. An appraisal may not be required by the county property**
 37 **tax assessment board of appeals or the assessor in a proceeding**
 38 **before the county property tax assessment board of appeals or in**
 39 **a preliminary informal meeting under IC 6-1.1-15-1(h)(2).**

40 **(b) For purposes of this section and except as provided in subsection**
 41 **(c), the interest shall be computed from the date on which the taxes**
 42 **were paid or due, whichever is later, to the date of the refund or credit.**



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1 (c) This subsection applies if a taxpayer who is entitled to a refund
2 or credit does not make a written request for the refund or credit to the
3 county auditor within forty-five (45) days after the final determination
4 of the county property tax assessment board of appeals, the state board
5 of tax commissioners, the department of local government finance, the
6 Indiana board, or the tax court that entitles the taxpayer to the refund
7 or credit. In the case of a taxpayer described in this subsection, the
8 interest shall be computed from the date on which the taxes were paid
9 or due to the date that is forty-five (45) days after the final
10 determination of the county property tax assessment board of appeals,
11 the state board of tax commissioners, the department of local
12 government finance, the Indiana board of tax review, or the Indiana tax
13 court. In any event, a property tax refund or credit must be issued not
14 later than ninety (90) days after the request is received.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 142, 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 15, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-4-39, AS AMENDED BY P.L.146-2008, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 39. (a) For assessment dates after February 28, 2005, except as provided in subsections (c) and (e), the true tax value of real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more and that has more than four (4) rental units is the lowest valuation determined by applying each of the following appraisal approaches:

(1) Cost approach that includes an estimated reproduction or replacement cost of buildings and land improvements as of the date of valuation together with estimates of the losses in value that have taken place due to wear and tear, design and plan, or neighborhood influences.

(2) Sales comparison approach, using data for generally comparable property.

(3) Income capitalization approach, using an applicable capitalization method and appropriate capitalization rates that are developed and used in computations that lead to an indication of value commensurate with the risks for the subject property use.

(b) The gross rent multiplier method is the preferred method of valuing:

(1) real property that has at least one (1) and not more than four (4) rental units; and

(2) mobile homes assessed under IC 6-1.1-7.

(c) A township assessor (if any) or the county assessor is not required to appraise real property referred to in subsection (a) using the three (3) appraisal approaches listed in subsection (a) if the assessor and the taxpayer agree before notice of the assessment is given to the taxpayer under section 22 of this chapter to the determination of the true tax value of the property by the assessor using one (1) of those appraisal approaches.

(d) To carry out this section, the department of local government finance may adopt rules for assessors to use in gathering and processing information for the application of the income capitalization method and the gross rent multiplier method. **If a taxpayer wishes to**

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have the income capitalization method or the gross rent multiplier method used in the initial formulation of the assessment of the taxpayer's property, the taxpayer must submit the necessary information to the assessor not later than the March 1 assessment date. However, the taxpayer shall not be prejudiced in any way, or restricted in pursuing an appeal, if the data is not submitted by March 1. A taxpayer must verify under penalties for perjury any information provided to the township or county assessor for use in the application of either method. **Information provided to the assessor under this section is confidential as provided in IC 6-1.1-35-9.**

(e) The true tax value of low income rental property (as defined in section 41 of this chapter) is not determined under subsection (a). The assessment method prescribed in section 41 of this chapter is the exclusive method for assessment of that property. This subsection does not impede any rights to appeal an assessment."

Page 2, delete lines 1 through 37.

Page 3, line 24, after "(p)." insert **"Only one (1) filing fee must be paid for a review, if the appeal involves contiguous parcels and all those parcels are covered by the appeal."**

Page 3, line 32, after "(p)." insert **"Only one (1) filing fee must be paid for a review, if the appeal involves contiguous parcels and all those parcels are covered by the appeal."**

Page 6, line 27, after "county" delete "or" and insert **"treasurer"**.

Page 6, line 28, delete "township official with whom the notice is filed".

Page 6, line 33, delete "assessor" and insert **"county treasurer"**.

Page 7, line 13, delete "has a duration of not more" and insert **"specifies that it expires forty-five (45) days after receiving a final determination in the proceeding or review, including any subsequent appeal from the final determination in the proceeding or review, or two (2) years after the power of attorney is executed, whichever is later."**

Page 7, delete line 14.

Page 7, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 4. IC 6-1.1-37-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. (a) If a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the taxpayer shall also be paid, or credited with, interest on the excess taxes that he the taxpayer paid at the rate of four percent (4%) per annum. However, in the case of an assessment that is decreased by the Indiana board or the Indiana tax court, the



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taxpayer is not entitled to interest on the excess taxes unless the taxpayer affirms, under penalty of perjury, that substantive evidence supporting the taxpayer's position had been:

- (1) presented by the taxpayer to the assessor before; or**
- (2) introduced by the taxpayer at;**

the hearing before the county property tax assessment board of appeals.

(b) For purposes of this section and except as provided in subsection (c), the interest shall be computed from the date on which the taxes were paid or due, whichever is later, to the date of the refund or credit.

(c) This subsection applies if a taxpayer who is entitled to a refund or credit does not make a written request for the refund or credit to the county auditor within forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government finance, the Indiana board, or the tax court that entitles the taxpayer to the refund or credit. In the case of a taxpayer described in this subsection, the interest shall be computed from the date on which the taxes were paid or due to the date that is forty-five (45) days after the final determination of the county property tax assessment board of appeals, the state board of tax commissioners, the department of local government finance, the Indiana board of tax review, or the Indiana tax court. In any event, a property tax refund or credit must be issued not later than ninety (90) days after the request is received."

Delete page 8.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 142 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 142 be amended to read as follows:

Page 7, line 18, after "determination" insert ", **refund, or credit**".

Page 7, line 20, delete "two (2)" and insert "**three (3)**".

Page 7, line 21, delete "later." and insert "**earlier.**".

Page 7, line 35, after "appeals." insert "**An appraisal may not be**

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required by the county property tax assessment board of appeals or the assessor in a proceeding before the county property tax assessment board of appeals or in a preliminary informal meeting under IC 6-1.1-15-1(h)(2)."

(Reference is to SB 142 as printed January 20, 2012.)

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