
HOUSE BILL No. 1090

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-24-1.2; IC 6-1.1-25.

Synopsis: Payment plan to remove property from tax sale. Applies statewide the authority that currently applies only in Lake County allowing the county auditor to remove real property from a tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes. Establishes a period during which a taxpayer who fails to make a payment under the delinquent property tax payment arrangement may not enter into another arrangement. Allows the county treasurer to extend the tax sale redemption period applicable to a homestead if the county treasurer and the taxpayer agree to an arrangement for payment of the amount required for redemption before the expiration of the extended redemption period. Provides for cancellation of the agreement and the extension if the taxpayer fails to meet the terms of the agreement. Provides that the total amount required for redemption includes all taxes, special assessments, penalties, and fees on property that accrued after the tax sale.

Effective: Upon passage.

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January 9, 2012, read first time and referred to Committee on Ways and Means.

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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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HOUSE BILL No. 1090



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 6-1.1-24-1.2, AS AMENDED BY P.L.113-2010,
2 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1.2. (a) Except as provided in subsection (c),
4 a tract or an item of real property may not be removed from the list
5 certified under section 1 of this chapter before the tax sale unless all:
6 (1) delinquent taxes and special assessments due before the date
7 the list on which the property appears was certified under section
8 1 of this chapter; and
9 (2) penalties due on the delinquency, interest, and costs directly
10 attributable to the tax sale;
11 have been paid in full.
12 (b) A county treasurer may accept partial payments of delinquent
13 property taxes, assessments, penalties, interest, or costs under
14 subsection (a) after the list of real property is certified under section 1
15 of this chapter. However, a partial payment does not remove a tract or
16 an item from the list certified under section 1 of this chapter unless the
17 taxpayer complies with subsection (a) or (c) before the date of the tax



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sale.
(c) The county auditor ~~in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000)~~ may remove a tract or an item of real property from the list certified under section 1 of this chapter before the tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes.

(d) The county treasurer may remove the tract or item from the list certified under section 1 of this chapter if the arrangement described in subsection (c):

- (1) is in writing;
- (2) is signed by the taxpayer; and
- (3) requires the taxpayer to pay the delinquent taxes in full ~~within one (1) not later than the last business day before July 1 of the year of~~ **after** the date the agreement is signed.

(e) If the taxpayer fails to make a payment under the arrangement described in subsection (c):

- (1) the arrangement is void; and**
- (2) the county auditor shall immediately place the tract or item of real property on the list of real property eligible for sale at a tax sale.**

(f) If the tract or item of real property subject to a payment arrangement is within the jurisdiction of a:

- (1) city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000);
- (2) city having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800);
- or
- (3) city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000);

the county auditor shall notify the mayor of the city of the arrangement.

(f) If the county auditor acts under subsection (e) with respect to a tract or item subject to an arrangement described in subsection (c), the taxpayer may not enter into another arrangement under subsection (c) with respect to that tract or item after the due date of the payment referred to in subsection (d) and before the date that succeeds by five (5) years the date on which the original arrangement would have expired if the arrangement had not become void under subsection (e).

SECTION 2. IC 6-1.1-25-2, AS AMENDED BY P.L.89-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The total amount of money required for

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1 the redemption of real property equals:

2 (1) the sum of the amounts prescribed in subsections (b) through
3 ~~(e)~~; **(f)**; or

4 (2) the amount prescribed in subsection ~~(f)~~; **(g)**;
5 reduced by any amounts held in the name of the taxpayer or the
6 purchaser in the tax sale surplus fund.

7 (b) Except as provided in subsection ~~(f)~~; **(g)**, the total amount
8 required for redemption includes:

9 (1) one hundred ten percent (110%) of the minimum bid for
10 which the tract or real property was offered at the time of sale, as
11 required by IC 6-1.1-24-5, if the tract or item of real property is
12 redeemed not more than six (6) months after the date of sale; or

13 (2) one hundred fifteen percent (115%) of the minimum bid for
14 which the tract or real property was offered at the time of sale, as
15 required by IC 6-1.1-24-5, if the tract or item of real property is
16 redeemed more than six (6) months but not more than one (1)
17 year after the date of sale.

18 (c) Except as provided in subsection ~~(f)~~; **(g)**, in addition to the
19 amount required under subsection (b), the total amount required for
20 redemption includes the amount by which the purchase price exceeds
21 the minimum bid on the real property plus ten percent (10%) per
22 annum on the amount by which the purchase price exceeds the
23 minimum bid on the property.

24 (d) Except as provided in subsection ~~(f)~~; **(g)**, in addition to the
25 amount required under subsections (b) and (c), the total amount
26 required for redemption includes all taxes and special assessments
27 upon the property paid by the purchaser after the sale plus ten percent
28 (10%) interest per annum on those taxes and special assessments.

29 (e) Except as provided in subsection ~~(f)~~; **(g)**, in addition to the
30 amounts required under subsections (b), (c), and (d), the total amount
31 required for redemption includes the following costs, if certified before
32 redemption and not earlier than thirty (30) days after the date of sale of
33 the property being redeemed by the payor to the county auditor on a
34 form prescribed by the state board of accounts, that were incurred and
35 paid by the purchaser, the purchaser's assignee, or the county, before
36 redemption:

37 (1) The attorney's fees and costs of giving notice under section 4.5
38 of this chapter.

39 (2) The costs of a title search or of examining and updating the
40 abstract of title for the tract or item of real property.

41 **(f) The total amount required for redemption includes, in**
42 **addition to the amounts required under subsections (b) and (e), all**

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1 **taxes, special assessments, penalties, and fees on the property that**
 2 **accrued after the sale.**

3 ~~(f)~~ (g) With respect to a tract or item of real property redeemed
 4 under section 4(c) of this chapter, instead of the amounts stated in
 5 subsections (b) through ~~(e)~~; (f), the total amount required for
 6 redemption is the amount determined under IC 6-1.1-24-6.1(b)(4).

7 SECTION 3. IC 6-1.1-25-4, AS AMENDED BY P.L.42-2011,
 8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]: Sec. 4. (a) The period for redemption of real
 10 property sold under IC 6-1.1-24 is:

- 11 (1) one (1) year after the date of sale;
 12 (2) one hundred twenty (120) days after the date of sale to a
 13 purchasing agency qualified under IC 36-7-17; or
 14 (3) one hundred twenty (120) days after the date of sale of real
 15 property on the list prepared under IC 6-1.1-24-1(a)(2) or
 16 IC 6-1.1-24-1.5.

17 (b) Subject to **subsection (l) and IC 6-1.1-24-9(d)**, the period for
 18 redemption of real property:

- 19 (1) on which the county executive acquires a lien under
 20 IC 6-1.1-24-6; and
 21 (2) for which the certificate of sale is not sold under
 22 IC 6-1.1-24-6.1;

23 is one hundred twenty (120) days after the date the county executive
 24 acquires the lien under IC 6-1.1-24-6.

25 (c) The period for redemption of real property:

- 26 (1) on which the county executive acquires a lien under
 27 IC 6-1.1-24-6; and
 28 (2) for which the certificate of sale is sold under IC 6-1.1-24;

29 is one hundred twenty (120) days after the date of sale of the certificate
 30 of sale under IC 6-1.1-24.

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

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



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1 (f) A tax deed executed under this chapter vests in the grantee an
 2 estate in fee simple absolute, free and clear of all liens and
 3 encumbrances created or suffered before or after the tax sale except
 4 those liens granted priority under federal law and the lien of the state
 5 or a political subdivision for taxes and special assessments which
 6 accrue subsequent to the sale and which are not removed under
 7 subsection (e). However, subject to subsection (g), the estate is subject
 8 to:

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

11 (2) laws, ordinances, and regulations concerning governmental
 12 police powers, including zoning, building, land use,
 13 improvements on the land, land division, and environmental
 14 protection; and

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

16 (g) A tax deed executed under this chapter for real property sold in
 17 a tax sale:

18 (1) does not operate to extinguish an easement recorded before
 19 the date of the tax sale in the office of the recorder of the county
 20 in which the real property is located, regardless of whether the
 21 easement was taxed under this article separately from the real
 22 property; and

23 (2) conveys title subject to all easements recorded before the date
 24 of the tax sale in the office of the recorder of the county in which
 25 the real property is located.

26 (h) A tax deed executed under this chapter is prima facie evidence
 27 of:

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

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

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

32 (i) A county auditor is not required to execute a deed to the county
 33 executive under this chapter if the county executive determines that the
 34 property involved contains hazardous waste or another environmental
 35 hazard for which the cost of abatement or alleviation will exceed the
 36 fair market value of the property. The county executive may enter the
 37 property to conduct environmental investigations.

38 (j) If the county executive makes the determination under subsection
 39 (i) as to any interest in an oil or gas lease or separate mineral rights, the
 40 county treasurer shall certify all delinquent taxes, interest, penalties,
 41 and costs assessed under IC 6-1.1-24 to the clerk, following the
 42 procedures in IC 6-1.1-23-9. After the date of the county treasurer's

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1 certification, the certified amount is subject to collection as delinquent
 2 personal property taxes under IC 6-1.1-23. Notwithstanding
 3 IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an
 4 interest shall be zero (0) until production commences.

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

11 **(l) If the county treasurer and the owner of a homestead (as**
 12 **defined in IC 6-1.1-12-37(a)(2)) agree before the expiration of the**
 13 **period for redemption under subsection (b) to a mutually**
 14 **satisfactory arrangement for the payment of the amount required**
 15 **for redemption under section 2 of this chapter before the**
 16 **expiration of a period for redemption extended under this**
 17 **subsection:**

18 (1) the county treasurer may extend the period for
 19 redemption; and

20 (2) except as provided in subsection (m), the extended period
 21 for redemption expires one (1) year after the date of the
 22 agreement.

23 **(m) If the owner of a homestead fails to meet the terms of an**
 24 **agreement entered into with the county treasurer under subsection**
 25 **(l), the county treasurer may terminate the agreement after**
 26 **providing thirty (30) days written notice to the owner. If the county**
 27 **treasurer gives notice under this subsection, the extended period**
 28 **for redemption established under subsection (l) expires thirty (30)**
 29 **days after the date of the notice.**

30 SECTION 4. An emergency is declared for this act.

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