

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1072 be amended to read as follows:

- 1 Page 10, after line 42, begin a new paragraph and insert:
- 2 "SECTION 17. IC 6-1.1-12-37, AS AMENDED BY P.L.172-2011,
- 3 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2012]: Sec. 37. (a) The following definitions apply throughout
- 5 this section:
- 6 (1) "Dwelling" means any of the following:
- 7 (A) Residential real property improvements that an individual
- 8 uses as the individual's residence, including a house or garage.
- 9 (B) A mobile home that is not assessed as real property that an
- 10 individual uses as the individual's residence.
- 11 (C) A manufactured home that is not assessed as real property
- 12 that an individual uses as the individual's residence.
- 13 (2) "Homestead" means an individual's principal place of
- 14 residence:
- 15 (A) that is located in Indiana;
- 16 (B) that:
- 17 (i) the individual owns;
- 18 (ii) the individual is buying under a contract; recorded in the
- 19 county recorder's office, that provides that the individual is
- 20 to pay the property taxes on the residence;
- 21 (iii) the individual is entitled to occupy as a
- 22 tenant-stockholder (as defined in 26 U.S.C. 216) of a
- 23 cooperative housing corporation (as defined in 26 U.S.C.
- 24 216); or
- 25 (iv) is a residence described in section 17.9 of this chapter
- 26 that is owned by a trust if the individual is an individual
- 27 described in section 17.9 of this chapter; and
- 28 (C) that consists of a dwelling and the real estate, not
- 29 exceeding one (1) acre, that immediately surrounds that
- 30 dwelling.

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

4 (b) Each year a homestead is eligible for a standard deduction from
 5 the assessed value of the homestead for an assessment date. The
 6 deduction provided by this section applies to property taxes first due
 7 and payable for an assessment date only if an individual has an interest
 8 in the homestead described in subsection (a)(2)(B) on:

- 9 (1) the assessment date; or
 10 (2) any date in the same year after an assessment date that a
 11 statement is filed under subsection (e) or section 44 of this
 12 chapter, if the property consists of real property.

13 Subject to subsection (c), the auditor of the county shall record and
 14 make the deduction for the individual or entity qualifying for the
 15 deduction.

16 (c) Except as provided in section 40.5 of this chapter, the total
 17 amount of the deduction that a person may receive under this section
 18 for a particular year is the lesser of:

- 19 (1) sixty percent (60%) of the assessed value of the real property,
 20 mobile home not assessed as real property, or manufactured home
 21 not assessed as real property; or
 22 (2) forty-five thousand dollars (\$45,000).

23 (d) A person who has sold real property, a mobile home not assessed
 24 as real property, or a manufactured home not assessed as real property
 25 to another person under a contract that provides that the contract buyer
 26 is to pay the property taxes on the real property, mobile home, or
 27 manufactured home may not claim the deduction provided under this
 28 section with respect to that real property, mobile home, or
 29 manufactured home.

30 (e) Except as provided in sections 17.8 and 44 of this chapter and
 31 subject to section 45 of this chapter, an individual who desires to claim
 32 the deduction provided by this section must file a certified statement in
 33 duplicate, on forms prescribed by the department of local government
 34 finance, with the auditor of the county in which the homestead is
 35 located. The statement must include:

- 36 (1) the parcel number or key number of the property and the name
 37 of the city, town, or township in which the property is located;
 38 (2) the name of any other location in which the applicant or the
 39 applicant's spouse owns, is buying, or has a beneficial interest in
 40 residential real property;
 41 (3) the names of:
 42 (A) the applicant and the applicant's spouse (if any):
 43 (i) as the names appear in the records of the United States
 44 Social Security Administration for the purposes of the
 45 issuance of a Social Security card and Social Security
 46 number; or

- 1 (ii) that they use as their legal names when they sign their
 2 names on legal documents;
 3 if the applicant is an individual; or
 4 (B) each individual who qualifies property as a homestead
 5 under subsection (a)(2)(B) and the individual's spouse (if any):
 6 (i) as the names appear in the records of the United States
 7 Social Security Administration for the purposes of the
 8 issuance of a Social Security card and Social Security
 9 number; or
 10 (ii) that they use as their legal names when they sign their
 11 names on legal documents;
 12 if the applicant is not an individual; and
 13 (4) either:
 14 (A) the last five (5) digits of the applicant's Social Security
 15 number and the last five (5) digits of the Social Security
 16 number of the applicant's spouse (if any); or
 17 (B) if the applicant or the applicant's spouse (if any) do not
 18 have a Social Security number, any of the following for that
 19 individual:
 20 (i) The last five (5) digits of the individual's driver's license
 21 number.
 22 (ii) The last five (5) digits of the individual's state
 23 identification card number.
 24 (iii) If the individual does not have a driver's license or a
 25 state identification card, the last five (5) digits of a control
 26 number that is on a document issued to the individual by the
 27 federal government and determined by the department of
 28 local government finance to be acceptable.
- 29 If a form or statement provided to the county auditor under this section,
 30 IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or
 31 part or all of the Social Security number of a party or other number
 32 described in subdivision (4)(B) of a party, the telephone number and
 33 the Social Security number or other number described in subdivision
 34 (4)(B) included are confidential. The statement may be filed in person
 35 or by mail. If the statement is mailed, the mailing must be postmarked
 36 on or before the last day for filing. The statement applies for that first
 37 year and any succeeding year for which the deduction is allowed. With
 38 respect to real property, the statement must be completed and dated in
 39 the calendar year for which the person desires to obtain the deduction
 40 and filed with the county auditor on or before January 5 of the
 41 immediately succeeding calendar year. With respect to a mobile home
 42 that is not assessed as real property, the person must file the statement
 43 during the twelve (12) months before March 31 of the year for which
 44 the person desires to obtain the deduction.
- 45 (f) If an individual who is receiving the deduction provided by this
 46 section or who otherwise qualifies property for a deduction under this

- 1 section:
- 2 (1) changes the use of the individual's property so that part or all
- 3 of the property no longer qualifies for the deduction under this
- 4 section; or
- 5 (2) is no longer eligible for a deduction under this section on
- 6 another parcel of property because:
- 7 (A) the individual would otherwise receive the benefit of more
- 8 than one (1) deduction under this chapter; or
- 9 (B) the individual maintains the individual's principal place of
- 10 residence with another individual who receives a deduction
- 11 under this section;
- 12 the individual must file a certified statement with the auditor of the
- 13 county, notifying the auditor of the change of use, not more than sixty
- 14 (60) days after the date of that change. An individual who fails to file
- 15 the statement required by this subsection is liable for any additional
- 16 taxes that would have been due on the property if the individual had
- 17 filed the statement as required by this subsection plus a civil penalty
- 18 equal to ten percent (10%) of the additional taxes due. The civil penalty
- 19 imposed under this subsection is in addition to any interest and
- 20 penalties for a delinquent payment that might otherwise be due. One
- 21 percent (1%) of the total civil penalty collected under this subsection
- 22 shall be transferred by the county to the department of local
- 23 government finance for use by the department in establishing and
- 24 maintaining the homestead property data base under subsection (i) and,
- 25 to the extent there is money remaining, for any other purposes of the
- 26 department. This amount becomes part of the property tax liability for
- 27 purposes of this article.
- 28 (g) The department of local government finance shall adopt rules or
- 29 guidelines concerning the application for a deduction under this
- 30 section.
- 31 (h) This subsection does not apply to property in the first year for
- 32 which a deduction is claimed under this section if the sole reason that
- 33 a deduction is claimed on other property is that the individual or
- 34 married couple maintained a principal residence at the other property
- 35 on March 1 in the same year in which an application for a deduction is
- 36 filed under this section or, if the application is for a homestead that is
- 37 assessed as personal property, on March 1 in the immediately
- 38 preceding year and the individual or married couple is moving the
- 39 individual's or married couple's principal residence to the property that
- 40 is the subject of the application. Except as provided in subsection (n),
- 41 the county auditor may not grant an individual or a married couple a
- 42 deduction under this section if:
- 43 (1) the individual or married couple, for the same year, claims the
- 44 deduction on two (2) or more different applications for the
- 45 deduction; and
- 46 (2) the applications claim the deduction for different property.

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

8 (j) **A county auditor may require an individual to provide**
 9 **evidence proving that the individual's residence is the individual's**
 10 **principal place of residence as claimed in the certified statement**
 11 **filed under subsection (e). The county auditor may limit the**
 12 **evidence that an individual is required to submit to a state income**
 13 **tax return, a valid driver's license, or a valid voter registration**
 14 **card showing that the residence for which the deduction is claimed**
 15 **is the individual's principal place of residence.** The department of
 16 local government finance shall work with county auditors to develop
 17 procedures to determine whether a property owner that is claiming a
 18 standard deduction or homestead credit is not eligible for the standard
 19 deduction or homestead credit because the property owner's principal
 20 place of residence is outside Indiana.

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

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

26 (2) The property is the principal place of residence of an
 27 individual.

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

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

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

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

36 (1) imposed for an assessment date in 2009; and

37 (2) first due and payable in 2010;

38 on the grounds that the property is not owned by an entity described in
 39 subsection (a)(2)(B), the county auditor shall reinstate the deduction if
 40 the taxpayer provides proof that the property is eligible for the
 41 deduction in accordance with subsection (k) and that the individual
 42 residing on the property is not claiming the deduction for any other
 43 property.

44 (m) For assessments dates after 2009, the term "homestead"
 45 includes:

46 (1) a deck or patio;

- 1 (2) a gazebo; or
 2 (3) another residential yard structure, as defined in rules adopted
 3 by the department of local government finance (other than a
 4 swimming pool);
 5 that is assessed as real property and attached to the dwelling.
- 6 (n) A county auditor shall grant an individual a deduction under this
 7 section regardless of whether the individual and the individual's spouse
 8 claim a deduction on two (2) different applications and each
 9 application claims a deduction for different property if the property
 10 owned by the individual's spouse is located outside Indiana and the
 11 individual files an affidavit with the county auditor containing the
 12 following information:
- 13 (1) The names of the county and state in which the individual's
 14 spouse claims a deduction substantially similar to the deduction
 15 allowed by this section.
- 16 (2) A statement made under penalty of perjury that the following
 17 are true:
- 18 (A) That the individual and the individual's spouse maintain
 19 separate principal places of residence.
- 20 (B) That neither the individual nor the individual's spouse has
 21 an ownership interest in the other's principal place of
 22 residence.
- 23 (C) That neither the individual nor the individual's spouse has,
 24 for that same year, claimed a standard or substantially similar
 25 deduction for any property other than the property maintained
 26 as a principal place of residence by the respective individuals.
- 27 A county auditor may require an individual or an individual's spouse to
 28 provide evidence of the accuracy of the information contained in an
 29 affidavit submitted under this subsection. The evidence required of the
 30 individual or the individual's spouse may include state income tax
 31 returns, excise tax payment information, property tax payment
 32 information, driver license information, and voter registration
 33 information.
- 34 (o) If:
- 35 (1) a property owner files a statement under subsection (e) to
 36 claim the deduction provided by this section for a particular
 37 property; and
- 38 (2) the county auditor receiving the filed statement determines
 39 that the property owner's property is not eligible for the deduction;
 40 the county auditor shall inform the property owner of the county
 41 auditor's determination in writing. **If a property owner's property is**
 42 **not eligible for the deduction because the county auditor has**
 43 **determined that the property is not the property owner's principal**
 44 **place of residence, the property owner may appeal the county**
 45 **auditor's determination to the county property tax assessment**
 46 **board of appeals as provided in IC 6-1.1-15. The county auditor**

1 shall inform the property owner of the owner's right to appeal to
2 the county property tax assessment board of appeals when the
3 county auditor informs the property owner of the county auditor's
4 determination under this subsection."

5 Page 152, between lines 28 and 29, begin a new paragraph and
6 insert:

7 "SECTION 113. [EFFECTIVE JULY 1, 2012] (a) The
8 administrative rule concerning proof by an individual that a
9 residence is the individual's principal place of residence for
10 purposes of the homestead standard deduction that is set forth at
11 50 IAC 24-3-2 is void. The publisher of the Indiana Administrative
12 Code shall remove 50 IAC 24-3-2 from the Indiana Administrative
13 Code.

14 (b) This SECTION expires July 1, 2014."

15 Renumber all SECTIONS consecutively.

(Reference is to EHB 1072 as printed February 24, 2012.)

Senator KRUSE