March 19, 2013

ENGROSSED
SENATE BILL No. 275

DIGEST OF SB 275 (Updated March 14, 2013 10:01 am - DI 75)

Citations Affected: IC 6-1.1.

Synopsis: Property tax payments. Provides that a county auditor shall (rather than may, under current law) remove real property from the tax sale list if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes. Adds a requirement that the county treasurer must have provided a copy of the written agreement for the arrangement to the county auditor. Provides that if a county council does not adopt an ordinance allowing taxpayers to make installment payments of property taxes, the county treasurer shall develop and implement a plan to accept partial payments of property taxes. Specifies that the county treasurer shall notify taxpayers on the property tax bill or envelope used to mail property taxes that the county has adopted a plan to accept partial payments.

Effective: July 1, 2013; January 1, 2014.

Miller Patricia, Kenley, Randolph,
Becker, Taylor
(HOUSE SPONSORS — TRUITT, CHERRY, RIECKEN, PRYOR)

January 8, 2013, read first time and referred to Committee on Appropriations.
February 4, 2013, amended, reported favorably — Do Pass.
February 12, 2013, read second time, amended, ordered engrossed.
February 13, 2013, engrossed.
February 14, 2013, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Local Government.
March 18, 2013, reported — Do Pass.

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March 19, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 275

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 6-1.1-24-1.2, AS AMENDED BY P.L.56-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.2. (a) Except as provided in subsection (c), a tract or an item of real property may not be removed from the list certified under section 1 of this chapter before the tax sale unless all:

(1) delinquent taxes and special assessments due before the date the list on which the property appears was certified under section 1 of this chapter; and

(2) penalties due on the delinquency, interest, and costs directly attributable to the tax sale;

have been paid in full.

(b) A county treasurer may accept partial payments of delinquent property taxes, assessments, penalties, interest, or costs under subsection (a) after the list of real property is certified under section 1 of this chapter. However, a partial payment does not remove a tract or an item from the list certified under section 1 of this chapter unless the taxpayer complies with subsection (a) or (c) before the date of the tax

sale.

(c) A county auditor ~~may~~ **shall** 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 auditor ~~may~~ **shall** remove the tract or item from the list certified under section 1 of this chapter if:

(1) the arrangement described in subsection (c):

~~(1)~~ **(A)** is in writing;

~~(2)~~ **(B)** is signed by the taxpayer; and

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

(2) the county treasurer has provided a copy of the written agreement to the county auditor.

(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 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 6-1.1-22-9.7, AS AMENDED BY P.L.120-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 9.7. (a) As used in this section, "current year" refers to the calendar year in which property taxes are first due and payable and are subject to payment during the payment period under this section.

(b) As used in this section, "monthly payment plan" means a plan that:

(1) is adopted under this section; and

(2) provides for the monthly payment of tax liability either by:

(A) an automatic monthly deduction during the payment period from an account of the taxpayer that is held by a financial institution; or

(B) the taxpayer making payments on a monthly basis during

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the payment period either by written instrument or electronically;

or both.

(c) As used in this section, "payment period" means the months designated under this section during which monthly payments may be made. The period may not exceed twelve (12) months and may not begin before December 1 of the preceding year or end after November 30 of the current year.

(d) As used in this section, "preceding year" refers to the calendar year that immediately precedes the current year.

(e) As used in this section, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(f) The county fiscal body (as defined in IC 36-1-2-6) may at any time adopt an ordinance to allow all county taxpayers to pay one (1) or more installments of property taxes by making payments under a monthly payment plan during a designated payment period. **If a county fiscal body does not adopt an ordinance under this section, the county treasurer shall develop and implement a plan to accept partial payments of property taxes. The county treasurer shall notify taxpayers on the property tax bill or envelope used to mail property taxes that the county has adopted a plan to accept partial payments.**

(g) An ordinance adopted under subsection (f):

(1) may apply to more than one (1) calendar year; and

(2) must include at least the following:

(A) Identification of the property tax installment or installments and designation of the months of the payment period for which payment under a monthly payment plan is authorized.

(B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments under a monthly payment plan.

(C) Authority for the county treasurer to make available to county taxpayers a form to be completed by a taxpayer and submitted to the county treasurer to:

(i) direct the county treasurer to accept payment of the taxpayer's property taxes by automatic monthly deduction during the payment period from an account of the taxpayer that is held by a financial institution; and

(ii) authorize the financial institution that holds the taxpayer's account to deduct monthly during the designated

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payment period the appropriate amount from the account and to pay that amount to the county treasurer.

However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic monthly deductions during the designated payment period from an account of the taxpayer that is held by a financial institution.

(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes on a monthly basis during the designated payment period either by written instrument or electronically. However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes on a monthly basis during the designated payment period either by written instrument or electronically.

An ordinance adopted under subsection (f) may include a provision authorizing taxpayers to make monthly payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (i), (j), (k), or (l).

(h) If an ordinance is adopted under subsection (f) to allow taxpayers to pay property taxes by automatic monthly deductions during the designated payment period from an account of the taxpayer that is held by a financial institution, the county treasurer shall provide to each county taxpayer that submits to the county treasurer the form referred to in subsection (g)(2)(C) a statement that includes at least the following:

(1) The amount to be deducted monthly from the taxpayer's account.

(2) The designated payment period and identification of the day each month, as chosen by the taxpayer, when the deduction will be made.

(3) A calculation of the amount to be deducted.

(4) An explanation of the manner in which property taxes for the current year will be reconciled under subsection (o) and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's account will be taken into account in the reconciliation.

(5) An explanation of the penalties that apply if there are insufficient funds in the taxpayer's account to cover one (1) or more automatic deductions.

(i) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (h)(3) is made the

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amount of tax liability for the current year has not been determined. Subject to subsections (j) and (k), the county treasurer shall do the following:

(1) Determine the following:

(A) For a parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.

(B) For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.

(C) For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.

(D) For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly payment due under a monthly payment plan by using the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

STEP TWO: Determine the quotient of:

(i) the number of property tax installments for the current year identified in the ordinance under subsection (g)(2)(A); divided by

(ii) the total number of property tax installments for the current year.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Determine the quotient of:

(i) the STEP THREE result; divided by

(ii) the number of months in the designated payment period.

(j) The county treasurer may determine the monthly payment due under a monthly payment plan in an amount different from the amount determined under subsection (i) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (i) to differ substantially from the tax liability likely to be determined for the current year.

(k) This subsection applies only if before an ordinance is adopted under subsection (f) the county treasurer determines to use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the taxpayer's monthly payment

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under a monthly payment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (i) the tax liability to be indicated on the provisional statement.

(l) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (h)(3) is made the amount of tax liability for the current year has been determined. The amount of the taxpayer's monthly payment under a monthly payment plan is the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance under subsection (g)(2)(A) divided by the number of months in the designated payment period.

(m) Tax liability paid under this section by automatic deduction from an account of the taxpayer that is held by a financial institution is not finally discharged and the person has not paid the tax until the taxpayer's account is charged for the payment.

(n) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable under a monthly payment plan under this section.

(o) After the last monthly payment under a monthly payment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined, the county treasurer shall issue a reconciling statement to the taxpayer. Each reconciling statement must indicate at least the following:

(1) The sum of:

(A) the taxpayer's actual tax liability for the current year; plus

(B) any penalty that applies for the current year.

(2) The total amount paid for the current year under a monthly payment plan, and by means other than under a monthly payment plan.

(3) If the amount under subdivision (1) exceeds the amount under subdivision (2), the deficiency is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than thirty (30) days after the date of the reconciling statement.

(4) If the amount under subdivision (2) exceeds the amount under subdivision (1), that the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(p) The county treasurer shall deposit the tax collections under this section under IC 5-13-6-3(a). The collections must remain in the funds in which they are deposited until the county auditor makes the

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distributions to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.

(q) IC 6-1.1-15:

(1) does not apply to a statement provided under subsection (h); and

(2) applies to a reconciling statement issued under subsection (o).

(r) The following apply to a taxpayer that makes monthly payments under this section:

(1) If a taxpayer has approval to use a monthly payment plan and makes timely monthly payments of property taxes in the amount determined by the county treasurer under subsection (i), (j), (k), or (l), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If:

(A) a taxpayer makes monthly payments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (i), (j), (k), or (l); and

(B) the total amount of property taxes paid by the taxpayer under the monthly payment plan or any other method by the November approved monthly due date is less than the amount determined by the county treasurer under subsection (i), (j), (k), or (l) that should have been paid by the taxpayer by the November approved monthly due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.

(s) IC 6-1.1-37-10 applies to any amounts due under a reconciling statement issued under subsection (o) that are not paid within thirty (30) days after the date of the reconciling statement, as required under subsection (o)(3).

(t) For purposes of IC 6-1.1-24-1(a)(1):

(1) property taxes to be paid under a monthly payment plan under this section before June of the current year are considered to be the taxpayer's spring installment of property taxes; and

(2) payment on a reconciling statement issued under subsection (o) is considered to be due before the due date of the first installment of property taxes payable in the year immediately following the current year.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 275, 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 17, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-22-9.7, AS AMENDED BY P.L.120-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2013]: Sec. 9.7. (a) As used in this section, "current year" refers to the calendar year in which property taxes are first due and payable and are subject to payment during the **twelve (12) month** payment period ~~under~~ **specified by** this section.

(b) As used in this section, "monthly payment plan" means a plan ~~that~~

~~(1) is adopted under this section; and~~

~~(2) provides~~ for the monthly payment of tax liability either by:

~~(A)~~ **(1)** an automatic monthly deduction during the payment period from an account of the taxpayer that is held by a financial institution; or

~~(B)~~ **(2)** the taxpayer making payments on a monthly basis during the payment period either by written instrument or electronically, or both.

(c) As used in this section, "payment period" means the ~~months designated under this section during which monthly payments may be made. The period may not exceed~~ twelve (12) months ~~and may not begin before~~ **beginning** December 1 of the preceding year ~~or end after November 30~~ **and ending November 28** of the current year.

(d) As used in this section, "preceding year" refers to the calendar year that immediately precedes the current year.

(e) As used in this section, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(f) ~~The county fiscal body (as defined in IC 36-1-2-6) may at any time adopt an ordinance to allow~~ **After November 30, 2013,** all county taxpayers **may elect** to pay one (1) or more installments of property taxes by making payments under a monthly payment plan during a ~~designated~~ payment period. **A taxpayer may elect to make monthly payments by either either automatic monthly deductions or making monthly payments:**

(1) by written instrument or electronically; or

(2) by both written instrument and electronically.

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A taxpayer may choose the monthly payment date. However, the taxpayer may not choose the twenty-ninth, thirtieth, or thirty-first day of a month as a payment date. A taxpayer may terminate the taxpayer's monthly payment plan. A taxpayer who was using a monthly payment plan under this section for 2012 may continue using a monthly payment plan without filing a new election.

~~(g) An ordinance adopted under subsection (f):~~

~~(1) may apply to more than one (1) calendar year; and~~

~~(2) must include at least the following:~~

~~(A) Identification of the property tax installment or installments and designation of the months of the payment period for which payment under a monthly payment plan is authorized.~~

~~(B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments under a monthly payment plan.~~

~~(C) Authority for the county treasurer to make available to county taxpayers a form to be completed by a taxpayer and submitted to the county treasurer to:~~

(g) The department of local government finance shall prescribe the form that must be completed by a taxpayer and submitted to the county treasurer to elect one (1) of the monthly payment options under subsection (f) or to terminate a monthly payment plan. Each county treasurer shall make available to county taxpayers a printable version of the form on the county treasurer's Internet web site. In addition, the department of local government finance shall make a printable version of the form available on the department's Internet web site. The form must provide for a taxpayer that elects the automatic monthly deduction option a place for the taxpayer to:

~~(i)~~ **(1)** direct the county treasurer to accept payment of the taxpayer's property taxes by automatic monthly deduction during the payment period from an account of the taxpayer that is held by a financial institution; and

~~(ii)~~ **(2)** authorize the financial institution that holds the taxpayer's account to deduct monthly during the designated payment period the appropriate amount from the account and to pay that amount to the county treasurer. ~~or~~

~~However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic monthly deductions during the designated payment period from an account of the taxpayer that~~

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~~is held by a financial institution.~~

~~(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes on a monthly basis during the designated payment period either by written instrument or electronically. However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes on a monthly basis during the designated payment period either by written instrument or electronically.~~

~~An ordinance adopted under subsection (f) may include a provision authorizing taxpayers to make monthly payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (i), (j), (k), or (l).~~

(h) If ~~an ordinance is adopted under subsection (f) to allow taxpayers~~ **a taxpayer elects** to pay property taxes by automatic monthly deductions during the ~~designated~~ payment period from an account of the taxpayer that is held by a financial institution, the county treasurer shall provide to ~~each county~~ **the** taxpayer ~~that submits to the county treasurer the form referred to in subsection (g)(2)(C)~~ a statement that includes at least the following:

(1) The amount to be deducted monthly from the taxpayer's account.

(2) The ~~designated payment period and~~ identification of the day each month ~~as~~ chosen by the taxpayer when the deduction will be made.

(3) A calculation of the amount to be deducted.

(4) An explanation of the manner in which property taxes for the current year will be reconciled under subsection (o) and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's account will be taken into account in the reconciliation.

(5) An explanation of the penalties that apply if there are insufficient funds in the taxpayer's account to cover one (1) or more automatic deductions.

(i) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (h)(3) is made the amount of tax liability for the current year has not been determined. Subject to subsections (j) and (k), the county treasurer shall do the following:

(1) Determine the following:

(A) For a parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.

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(B) For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.

(C) For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.

(D) For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly payment due under a monthly payment plan by using the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

~~STEP TWO: Determine the quotient of:~~

~~(i) the number of property tax installments for the current year identified in the ordinance under subsection (g)(2)(A); divided by~~

~~(ii) the total number of property tax installments for the current year.~~

~~STEP THREE: Multiply the STEP ONE result by the STEP TWO result.~~

STEP ~~FOUR:~~ **TWO:** Determine the quotient of:

(i) the STEP ~~THREE~~ **ONE** result; divided by

(ii) the number of months **remaining** in the ~~designated~~ payment period.

(j) The county treasurer may determine the monthly payment due under a monthly payment plan in an amount different from the amount determined under subsection (i) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (i) to differ substantially from the tax liability likely to be determined for the current year.

(k) This subsection applies only if ~~before an ordinance is adopted under subsection (f)~~ the county treasurer ~~determines to~~ **will** use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the taxpayer's monthly payment under a monthly payment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (i) the tax liability to be indicated on the provisional statement.

(l) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (h)(3) is made the

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actual amount of tax liability for the current year has been determined. The amount of the taxpayer's monthly payment under a monthly payment plan is the amount of the tax liability for the current year ~~payable in the installment or installments identified in the ordinance under subsection (g)(2)(A)~~ divided by the number of months **remaining** in the ~~designated~~ payment period.

(m) Tax liability paid under this section by automatic deduction from an account of the taxpayer that is held by a financial institution is not finally discharged and the person has not paid the tax until the taxpayer's account is charged for the payment.

(n) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable under a monthly payment plan under this section.

(o) ~~After the last monthly payment under a monthly payment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined,~~ The county treasurer shall issue ~~a~~ **two (2)** reconciling ~~statement~~ **statements** to the taxpayer **each year. The first reconciling statement shall be mailed to the taxpayer not later than thirty (30) days before the date on which the taxpayer's May payment is due, and the second reconciling statement shall be mailed to the taxpayer not later than thirty (30) days before the date on which the taxpayer's November payment is due.** Each reconciling statement must indicate at least the following:

(1) The sum of:

(A) the taxpayer's actual tax liability for the current year **that is due through:**

(i) May of the current year for the first reconciliation; and

(ii) November of the current year for the second reconciliation; plus

(B) any penalty that applies for the current year.

(2) The total amount paid for the current year under a monthly payment plan, and by means other than under a monthly payment plan.

(3) If the amount under subdivision (1) exceeds the amount under subdivision (2):

(A) for the first reconciliation, the **amount of the** deficiency **and a statement that the deficiency** is ~~payable by~~ **due from** the taxpayer **not later than the date on which the taxpayer's May payment is due; and**

(B) for the second reconciliation, the amount of the deficiency and a statement that the deficiency is:

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~~(A)~~ ~~as~~ **(i)** a final reconciliation of the tax liability; and

~~(B)~~ **(ii) due** not later than ~~thirty~~ ~~(30)~~ ~~days~~ ~~after~~ the date ~~of the reconciling statement~~ **on which the taxpayer's November payment is due.**

(4) If the amount under subdivision (2) exceeds the amount under subdivision (1) ~~that~~ **for the first reconciliation, the county treasurer shall apply the excess to the taxpayer's remaining liability for the current year. If the amount under subdivision (2) exceeds the amount under subdivision (1) for the second reconciliation,** the county treasurer ~~will~~ **shall** apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(p) The county treasurer shall deposit the tax collections under this section under IC 5-13-6-3(a). The collections must remain in the funds in which they are deposited until the county auditor makes the distributions to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.

(q) IC 6-1.1-15:

(1) does not apply to a statement provided under subsection (h); and

(2) applies to ~~a~~ **the first** reconciling statement issued under subsection (o).

(r) The following apply to a taxpayer that makes monthly payments under this section:

(1) If a taxpayer ~~has approval to use a monthly payment plan and~~ makes timely monthly payments of property taxes in the amount determined by the county treasurer under subsection (i), (j), (k), or (l), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If:

(A) a taxpayer makes monthly payments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (i), (j), (k), or (l); and

(B) the total amount of property taxes paid by the taxpayer under the monthly payment plan or any other method by the **taxpayer's** November ~~approved monthly~~ due date is less than the amount determined by the county treasurer under subsection (i), (j), (k), or (l) that should have been paid by the

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taxpayer by the **taxpayer's** November ~~approved monthly~~ due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.

(s) IC 6-1.1-37-10 applies to any amounts due under a reconciling statement issued under subsection (o) that are not paid ~~within thirty (30) days after the date of the reconciling statement, as required under subsection (o)(3).~~ **by the due date.**

(t) For purposes of IC 6-1.1-24-1(a)(1):

(1) property taxes to be paid under a monthly payment plan under this section before June of the current year are considered to be the taxpayer's spring installment of property taxes; and

(2) payment on a reconciling statement issued under subsection (o) is considered to be due before the due date of the first installment of property taxes payable in the year immediately following the current year.

(u) The department of local government finance shall adopt rules, under IC 4-22-2, to establish a uniform statewide monthly payment plan system that is optional for taxpayers.".

Delete pages 2 through 25.

and when so amended that said bill do pass.

(Reference is to SB 275 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 3.

SENATE MOTION

Madam President: I move that Senate Bill 275 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-24-1.2, AS AMENDED BY P.L.56-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.2. (a) Except as provided in subsection (c), a tract or an item of real property may not be removed from the list certified under section 1 of this chapter before the tax sale unless all:

(1) delinquent taxes and special assessments due before the date the list on which the property appears was certified under section 1 of this chapter; and

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(2) penalties due on the delinquency, interest, and costs directly attributable to the tax sale;

have been paid in full.

(b) A county treasurer may accept partial payments of delinquent property taxes, assessments, penalties, interest, or costs under subsection (a) after the list of real property is certified under section 1 of this chapter. However, a partial payment does not remove a tract or an item from the list certified under section 1 of this chapter unless the taxpayer complies with subsection (a) or (c) before the date of the tax sale.

(c) A county auditor ~~may~~ **shall** 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 auditor ~~may~~ **shall** remove the tract or item from the list certified under section 1 of this chapter if:

(1) the arrangement described in subsection (c):

~~(1)~~ **(A)** is in writing;

~~(2)~~ **(B)** is signed by the taxpayer; and

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

(2) the county treasurer has provided a copy of the written agreement to the county auditor.

(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 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).".

Page 1, delete lines 3 through 17, begin a new line blocked left and insert:

"JANUARY 1, 2014]: Sec. 9.7. (a) As used in this section, "current year" refers to the calendar year in which property taxes are first due and payable and are subject to payment during the payment period

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under this section.

(b) As used in this section, "monthly payment plan" means a plan that:

(1) is adopted under this section; and

(2) provides for the monthly payment of tax liability either by:

(A) an automatic monthly deduction during the payment period from an account of the taxpayer that is held by a financial institution; or

(B) the taxpayer making payments on a monthly basis during the payment period either by written instrument or electronically;

or both.

(c) As used in this section, "payment period" means the months designated under this section during which monthly payments may be made. The period may not exceed twelve (12) months and may not begin before December 1 of the preceding year or end after November 30 of the current year.

(d) As used in this section, "preceding year" refers to the calendar year that immediately precedes the current year.

(e) As used in this section, "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(f) The county fiscal body (as defined in IC 36-1-2-6) may at any time adopt an ordinance to allow all county taxpayers to pay one (1) or more installments of property taxes by making payments under a monthly payment plan during a designated payment period. **If a county fiscal body does not adopt an ordinance under this section, the county treasurer shall develop and implement a plan to accept partial payments of property taxes. The county treasurer shall notify taxpayers on the property tax bill or envelope used to mail property taxes that the county has adopted a plan to accept partial payments.**

(g) An ordinance adopted under subsection (f):

(1) may apply to more than one (1) calendar year; and

(2) must include at least the following:

(A) Identification of the property tax installment or installments and designation of the months of the payment period for which payment under a monthly payment plan is authorized.

(B) Provisions for notice to county taxpayers of the option to pay one (1) or more property tax installments under a monthly payment plan.

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(C) Authority for the county treasurer to make available to county taxpayers a form to be completed by a taxpayer and submitted to the county treasurer to:

(i) direct the county treasurer to accept payment of the taxpayer's property taxes by automatic monthly deduction during the payment period from an account of the taxpayer that is held by a financial institution; and

(ii) authorize the financial institution that holds the taxpayer's account to deduct monthly during the designated payment period the appropriate amount from the account and to pay that amount to the county treasurer.

However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes by automatic monthly deductions during the designated payment period from an account of the taxpayer that is held by a financial institution.

(D) Authority for the county treasurer to accept payment of the taxpayer's property taxes on a monthly basis during the designated payment period either by written instrument or electronically. However, this clause applies only if the county fiscal body has adopted an ordinance under this section to allow taxpayers to pay property taxes on a monthly basis during the designated payment period either by written instrument or electronically.

An ordinance adopted under subsection (f) may include a provision authorizing taxpayers to make monthly payments in an amount determined by the taxpayer that is different from the amount otherwise determined by the county treasurer under subsection (i), (j), (k), or (l).

(h) If an ordinance is adopted under subsection (f) to allow taxpayers to pay property taxes by automatic monthly deductions during the designated payment period from an account of the taxpayer that is held by a financial institution, the county treasurer shall provide to each county taxpayer that submits to the county treasurer the form referred to in subsection (g)(2)(C) a statement that includes at least the following:

(1) The amount to be deducted monthly from the taxpayer's account.

(2) The designated payment period and identification of the day each month, as chosen by the taxpayer, when the deduction will be made.

(3) A calculation of the amount to be deducted.

(4) An explanation of the manner in which property taxes for the

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current year will be reconciled under subsection (o) and notice that any property tax payments for the current year made by the taxpayer by means other than automatic deduction from the taxpayer's account will be taken into account in the reconciliation.

(5) An explanation of the penalties that apply if there are insufficient funds in the taxpayer's account to cover one (1) or more automatic deductions.

(i) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (h)(3) is made the amount of tax liability for the current year has not been determined. Subject to subsections (j) and (k), the county treasurer shall do the following:

(1) Determine the following:

(A) For a parcel of real property, the most recently determined amount of tax liability that applied to the parcel for the preceding year.

(B) For a personal property return, the most recently determined amount of tax liability that applied for the personal property return for the same location for the preceding year.

(C) For distributable property, the most recently determined amount of tax liability that applied with respect to the statement filed by the taxpayer under IC 6-1.1-8-19 for the preceding year.

(D) For a mobile home subject to IC 6-1.1-7, the most recently determined amount of tax liability that applied to the mobile home for the preceding year.

(2) Determine the amount of the monthly payment due under a monthly payment plan by using the following STEPS:

STEP ONE: Determine under subdivision (1) the amount of tax liability that applied for the preceding year.

STEP TWO: Determine the quotient of:

(i) the number of property tax installments for the current year identified in the ordinance under subsection (g)(2)(A); divided by

(ii) the total number of property tax installments for the current year.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Determine the quotient of:

(i) the STEP THREE result; divided by

(ii) the number of months in the designated payment period.

(j) The county treasurer may determine the monthly payment due

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under a monthly payment plan in an amount different from the amount determined under subsection (i) if the county treasurer determines that changes in circumstances have caused the amount determined under subsection (i) to differ substantially from the tax liability likely to be determined for the current year.

(k) This subsection applies only if before an ordinance is adopted under subsection (f) the county treasurer determines to use provisional property tax statements under IC 6-1.1-22.5 for the current year. For purposes of determining the amount of the taxpayer's monthly payment under a monthly payment plan, the county treasurer shall substitute for the tax liability that applied to the parcel for the preceding year under subsection (i) the tax liability to be indicated on the provisional statement.

(l) This subsection applies only if the county treasurer determines that at the time the calculation under subsection (h)(3) is made the amount of tax liability for the current year has been determined. The amount of the taxpayer's monthly payment under a monthly payment plan is the amount of the tax liability for the current year payable in the installment or installments identified in the ordinance under subsection (g)(2)(A) divided by the number of months in the designated payment period.

(m) Tax liability paid under this section by automatic deduction from an account of the taxpayer that is held by a financial institution is not finally discharged and the person has not paid the tax until the taxpayer's account is charged for the payment.

(n) Penalties apply under IC 6-1.1-37-10 as specified in this section to taxes payable under a monthly payment plan under this section.

(o) After the last monthly payment under a monthly payment plan under this section for the current year has been made and after the amount of tax liability for the current year has been determined, the county treasurer shall issue a reconciling statement to the taxpayer. Each reconciling statement must indicate at least the following:

(1) The sum of:

(A) the taxpayer's actual tax liability for the current year; plus

(B) any penalty that applies for the current year.

(2) The total amount paid for the current year under a monthly payment plan, and by means other than under a monthly payment plan.

(3) If the amount under subdivision (1) exceeds the amount under subdivision (2), the deficiency is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than thirty (30) days after the date of the

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reconciling statement.

(4) If the amount under subdivision (2) exceeds the amount under subdivision (1), that the county treasurer will apply the excess as a credit against the taxpayer's tax liability for the immediately succeeding calendar year unless the taxpayer makes a claim for refund of the excess under IC 6-1.1-26.

(p) The county treasurer shall deposit the tax collections under this section under IC 5-13-6-3(a). The collections must remain in the funds in which they are deposited until the county auditor makes the distributions to the appropriate taxing units at the semiannual settlements under IC 6-1.1-27. However, this subsection does not prohibit a county treasurer from making an advance to a political subdivision under IC 5-13-6-3 of a portion of the taxes collected.

(q) IC 6-1.1-15:

(1) does not apply to a statement provided under subsection (h); and

(2) applies to a reconciling statement issued under subsection (o).

(r) The following apply to a taxpayer that makes monthly payments under this section:

(1) If a taxpayer has approval to use a monthly payment plan and makes timely monthly payments of property taxes in the amount determined by the county treasurer under subsection (i), (j), (k), or (l), the taxpayer's property tax payments shall not be considered delinquent for purposes of IC 6-1.1-37-10 and the taxpayer is not subject to penalties under that section.

(2) If:

(A) a taxpayer makes monthly payments of property taxes in an amount that is less than the amount determined by the county treasurer under subsection (i), (j), (k), or (l); and

(B) the total amount of property taxes paid by the taxpayer under the monthly payment plan or any other method by the November approved monthly due date is less than the amount determined by the county treasurer under subsection (i), (j), (k), or (l) that should have been paid by the taxpayer by the November approved monthly due date;

the penalty provisions of IC 6-1.1-37-10 apply to the delinquent property taxes.

(s) IC 6-1.1-37-10 applies to any amounts due under a reconciling statement issued under subsection (o) that are not paid within thirty (30) days after the date of the reconciling statement, as required under subsection (o)(3).

(t) For purposes of IC 6-1.1-24-1(a)(1):

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(1) property taxes to be paid under a monthly payment plan under this section before June of the current year are considered to be the taxpayer's spring installment of property taxes; and
(2) payment on a reconciling statement issued under subsection (o) is considered to be due before the due date of the first installment of property taxes payable in the year immediately following the current year.".

Delete pages 2 through 7.

Renumber all SECTIONS consecutively.

(Reference is to SB 275 as printed February 5, 2013.)

MILLER PATRICIA

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 275, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

NEESE, Chair

Committee Vote: yeas 10, nays 0.

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