
HOUSE BILL No. 1303

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1; IC 36-1-4-17.

Synopsis: Collection of amounts owed to local units. Requires the department of state revenue to establish a pilot collection program (pilot program) allowing up to 10 cities, towns, counties, or townships to participate in a program assigning to the department the collection of judgments and delinquent assessments due to those local units of government. Provides that a delinquent assessment is any amount due and payable to a local unit that has remained unpaid for at least 30 days. Permits the department to carry out the pilot program by: (1) enforcing judgment warrants by levying against property or garnishing earnings; (2) using the data match system that the department operates with each Indiana financial institution; and (3) employing special counsel or contracting with a collection agency. Provides that in contracting with collection agencies, the department shall give a preference to collection agencies that meet certain criteria. Establishes procedures for issuance of demand notices and warrants. Provides that a warrant becomes a judgment when recorded by the circuit court clerk. Provides for various fees to be assessed by the department with respect to the collection process. Permits the department to disclose all information relating to a judgment warrant subject to collection under the pilot program to a local unit of government participating in the program.

Effective: July 1, 2013.

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January 14, 2013, read first time and referred to Committee on Government and Regulatory Reform.

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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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HOUSE BILL No. 1303



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 6-8.1-7-1, AS AMENDED BY P.L.182-2009(ss),
2 SECTION 254, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) This subsection does not
4 apply to the disclosure of information concerning a conviction on a tax
5 evasion charge. Unless in accordance with a judicial order or as
6 otherwise provided in this chapter, the department, its employees,
7 former employees, counsel, agents, or any other person may not divulge
8 the amount of tax paid by any taxpayer, terms of a settlement
9 agreement executed between a taxpayer and the department,
10 investigation records, investigation reports, or any other information
11 disclosed by the reports filed under the provisions of the law relating
12 to any of the listed taxes, including required information derived from
13 a federal return, except to:
14 (1) members and employees of the department;
15 (2) the governor;
16 (3) the attorney general or any other legal representative of the
17 state in any action in respect to the amount of tax due under the



1 provisions of the law relating to any of the listed taxes; or
2 (4) any authorized officers of the United States;
3 when it is agreed that the information is to be confidential and to be
4 used solely for official purposes.

5 (b) The information described in subsection (a) may be revealed
6 upon the receipt of a certified request of any designated officer of the
7 state tax department of any other state, district, territory, or possession
8 of the United States when:

9 (1) the state, district, territory, or possession permits the exchange
10 of like information with the taxing officials of the state; and

11 (2) it is agreed that the information is to be confidential and to be
12 used solely for tax collection purposes.

13 (c) The information described in subsection (a) relating to a person
14 on public welfare or a person who has made application for public
15 welfare may be revealed to the director of the division of family
16 resources, and to any director of a county office of the division of
17 family resources located in Indiana, upon receipt of a written request
18 from either director for the information. The information shall be
19 treated as confidential by the directors. In addition, the information
20 described in subsection (a) relating to a person who has been
21 designated as an absent parent by the state Title IV-D agency shall be
22 made available to the state Title IV-D agency upon request. The
23 information shall be subject to the information safeguarding provisions
24 of the state and federal Title IV-D programs.

25 (d) The name, address, Social Security number, and place of
26 employment relating to any individual who is delinquent in paying
27 educational loans owed to a postsecondary educational institution may
28 be revealed to that institution if it provides proof to the department that
29 the individual is delinquent in paying for educational loans. This
30 information shall be provided free of charge to approved postsecondary
31 educational institutions (as defined by IC 21-7-13-6(a)). The
32 department shall establish fees that all other institutions must pay to the
33 department to obtain information under this subsection. However, these
34 fees may not exceed the department's administrative costs in providing
35 the information to the institution.

36 (e) The information described in subsection (a) relating to reports
37 submitted under IC 6-6-1.1-502 concerning the number of gallons of
38 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
39 gallons of special fuel sold by a supplier and the number of gallons of
40 special fuel exported by a licensed exporter or imported by a licensed
41 transporter may be released by the commissioner upon receipt of a
42 written request for the information.

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1 (f) The information described in subsection (a) may be revealed
2 upon the receipt of a written request from the administrative head of a
3 state agency of Indiana when:

4 (1) the state agency shows an official need for the information;
5 and

6 (2) the administrative head of the state agency agrees that any
7 information released will be kept confidential and will be used
8 solely for official purposes.

9 (g) The information described in subsection (a) may be revealed
10 upon the receipt of a written request from the chief law enforcement
11 officer of a state or local law enforcement agency in Indiana when it is
12 agreed that the information is to be confidential and to be used solely
13 for official purposes.

14 (h) The name and address of retail merchants, including township,
15 as specified in IC 6-2.5-8-1(j) may be released solely for tax collection
16 purposes to township assessors and county assessors.

17 (i) The department shall notify the appropriate innkeepers' tax
18 board, bureau, or commission that a taxpayer is delinquent in remitting
19 innkeepers' taxes under IC 6-9.

20 (j) All information relating to the delinquency or evasion of the
21 motor vehicle excise tax may be disclosed to the bureau of motor
22 vehicles in Indiana and may be disclosed to another state, if the
23 information is disclosed for the purpose of the enforcement and
24 collection of the taxes imposed by IC 6-6-5.

25 (k) All information relating to the delinquency or evasion of
26 commercial vehicle excise taxes payable to the bureau of motor
27 vehicles in Indiana may be disclosed to the bureau and may be
28 disclosed to another state, if the information is disclosed for the
29 purpose of the enforcement and collection of the taxes imposed by
30 IC 6-6-5.5.

31 (l) All information relating to the delinquency or evasion of
32 commercial vehicle excise taxes payable under the International
33 Registration Plan may be disclosed to another state, if the information
34 is disclosed for the purpose of the enforcement and collection of the
35 taxes imposed by IC 6-6-5.5.

36 (m) All information relating to the delinquency or evasion of the
37 excise taxes imposed on recreational vehicles and truck campers that
38 are payable to the bureau of motor vehicles in Indiana may be disclosed
39 to the bureau and may be disclosed to another state if the information
40 is disclosed for the purpose of the enforcement and collection of the
41 taxes imposed by IC 6-6-5.1.

42 (n) **All information relating to a judgment warrant subject to**



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1 **collection by the department under IC 6-8.1-8.5 may be disclosed**
 2 **to the local unit.**

3 ~~(m)~~ (o) This section does not apply to:

- 4 (1) the beer excise tax, including brand and packaged type
 5 (IC 7.1-4-2);
 6 (2) the liquor excise tax (IC 7.1-4-3);
 7 (3) the wine excise tax (IC 7.1-4-4);
 8 (4) the hard cider excise tax (IC 7.1-4-4.5);
 9 (5) the malt excise tax (IC 7.1-4-5);
 10 (6) the motor vehicle excise tax (IC 6-6-5);
 11 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
 12 (8) the fees under IC 13-23.

13 ~~(n)~~ (p) The name and business address of retail merchants within
 14 each county that sell tobacco products may be released to the division
 15 of mental health and addiction and the alcohol and tobacco commission
 16 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

17 SECTION 2. IC 6-8.1-8-8.7, AS AMENDED BY P.L.138-2008,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2013]: Sec. 8.7. (a) The department shall operate a data match
 20 system with each financial institution doing business in Indiana.

21 (b) Each financial institution doing business in Indiana shall provide
 22 information to the department on all individuals:

- 23 (1) who hold one (1) or more accounts with the financial
 24 institution; and
 25 (2) upon whom a levy (**including a levy under IC 6-8.1-8.5**) may
 26 be issued by the department or a county treasurer.

27 (c) To provide the information required under subsection (b), a
 28 financial institution shall do one (1) of the following:

- 29 (1) Identify individuals by comparing records maintained by the
 30 financial institution with records provided by the department by:
 31 (A) name; and
 32 (B) either:
 33 (i) Social Security number; or
 34 (ii) tax identification number.

35 (2) Comply with IC 31-25-4-31(c)(2). The child support bureau
 36 established by IC 31-25-3-1 shall regularly make reports
 37 submitted under IC 31-25-4-31(c)(2) accessible to the department
 38 or its agents for use only in tax judgment and levy administration.

39 (d) The information required under subsection (b) must:

- 40 (1) be provided on a quarterly basis; and
 41 (2) include the:
 42 (A) name;

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- 1 (B) address of record; and
 2 (C) either:
 3 (i) the Social Security number; or
 4 (ii) tax identification number;
 5 of individuals identified under subsection (b).
 6 (e) When the department determines that the information required
 7 under subsection (d)(2) is identical for an individual who holds an
 8 account with a financial institution and an individual against whom a
 9 levy may be issued by the department or a county treasurer, the
 10 department or its agents shall provide a notice of the match, in
 11 compliance with section 4 of this chapter, if action is to be initiated to
 12 levy or encumber the account.
 13 (f) This section does not preclude a financial institution from
 14 exercising its right to:
 15 (1) charge back or recoup a deposit to an account; or
 16 (2) set off from an account held by the financial institution in
 17 which the individual has an interest in any debts owed to the
 18 financial institution that existed before:
 19 (A) the state's levy; and
 20 (B) notification to the financial institution of the levy.
 21 (g) A financial institution ordered to block or encumber an account
 22 under this section is entitled to collect its normally scheduled account
 23 activity fees to maintain the account during the period the account is
 24 blocked or encumbered.
 25 (h) All information provided by a financial institution under this
 26 section is confidential and is available only to the department or its
 27 agents for use only in levy collection activities.
 28 (i) A financial institution providing information required under this
 29 section is not liable for:
 30 (1) disclosing the required information to the department or the
 31 child support bureau established by IC 31-25-3-1;
 32 (2) blocking or surrendering an individual's assets in response to
 33 a levy imposed under this section by:
 34 (A) the department; or
 35 (B) a person or an entity acting on behalf of the department; or
 36 (3) any other action taken in good faith to comply with this
 37 section.
 38 (j) A person or an entity that is acting on behalf of the department
 39 is not liable for any action taken in good faith to collect the state's levy
 40 under this section unless:
 41 (1) the action is contrary to the department's direction to the
 42 person or entity; or

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- 1 (2) for information provided under this section, the person or
 2 entity acts with:
- 3 (A) deliberate ignorance of the truth or falsity of the
 4 information; or
- 5 (B) reckless disregard for the truth or falsity of the
 6 information.
- 7 (k) The department or its agents shall pay a financial institution
 8 performing the data match required by this section a reasonable fee, as
 9 determined by the department, of at least five dollars (\$5) for each levy
 10 issued to the financial institution.
- 11 (l) This section does not prevent the department or its agents from
 12 encumbering an obligor's account with a financial institution by any
 13 other remedy available under the law.
- 14 SECTION 3. IC 6-8.1-8.5 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2013]:
- 17 **Chapter 8.5. Pilot Program for Agreements for Collection of**
 18 **Amounts Owed to Judgment Warrants for Local Units**
- 19 **Sec. 1. As used in this chapter, "judgment warrant" or**
 20 **"warrant" means any amount due and payable to a local unit that**
 21 **has been assigned to the department for collection under this**
 22 **chapter.**
- 23 **Sec. 2. As used in this chapter, "delinquent assessment" means**
 24 **any amount due and payable to a local unit that has remained**
 25 **unpaid for at least thirty (30) days.**
- 26 **Sec. 3. As used in this chapter, "local unit" means a county, city,**
 27 **town, or township.**
- 28 **Sec. 4. (a) The department shall establish a pilot collection**
 29 **program allowing up to ten (10) local units to participate in a**
 30 **program assigning to the department the collection of judgments**
 31 **and delinquent assessments due to the local units. In order to**
 32 **participate in the pilot collection program, a local unit must adopt**
 33 **an ordinance electing to participate in the program and assigning**
 34 **to the department collection of all judgment warrants owed to the**
 35 **local unit for one (1) year.**
- 36 **(b) If a local unit adopts an ordinance described in subsection**
 37 **(a), the local unit shall immediately send a certified copy of the**
 38 **ordinance to the commissioner.**
- 39 **(c) The determination of the department concerning the**
 40 **participation of a local unit in the pilot collection program is final**
 41 **and not subject to appeal or review.**
- 42 **Sec. 5. (a) The department may issue a warrant on a delinquent**

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1 assessment to reduce it to a judgment warrant collectible by the
 2 department under this chapter. Before issuing a warrant on a
 3 delinquent assessment, the department or a special counsel or
 4 collection agency designated by the department under section 9 of
 5 this chapter shall issue a demand notice for payment of the
 6 delinquent assessment and any interest or penalties accrued on the
 7 delinquent assessment. The demand notice must state the
 8 following:

9 (1) That the person has ten (10) days from the date the
 10 department, special counsel, or collection agency mails the
 11 notice to either pay the amount demanded or show reasonable
 12 cause for not paying the amount demanded.

13 (2) The statutory authority of the department for the issuance
 14 of a warrant.

15 (3) The earliest date on which a warrant may be filed and
 16 recorded.

17 (4) The statutory authority for the department to levy against
 18 the person's property that is held by a financial institution.

19 (5) The remedies available to the person to prevent the filing
 20 and recording of the judgment.

21 (b) If the department files a warrant in more than one (1)
 22 county, the department is not required to issue more than one (1)
 23 demand notice.

24 Sec. 6. (a) If a person does not pay the amount demanded or
 25 show reasonable cause for not paying the amount demanded within
 26 the ten (10) day period stated in the demand notice issued under
 27 section 4 of this chapter, the department may issue a warrant for:

28 (1) the amount of the delinquent assessment; plus

29 (2) fees established under section 7 of this chapter.

30 (b) The department may also send a warrant issued under
 31 subsection (a) to the sheriff of any county in which the person
 32 owing the delinquent assessment owns property and direct the
 33 sheriff to file the warrant with the circuit court clerk:

34 (1) at least twenty (20) days after the date the demand notice
 35 was mailed to the person; and

36 (2) not later than five (5) days after the date the department
 37 issues the warrant.

38 (c) When the circuit court clerk receives a warrant from the
 39 department or the sheriff, the clerk shall record the warrant by
 40 making an entry in the judgment debtor's column of the judgment
 41 record, listing the following:

42 (1) The name of the person owing the delinquent assessment.

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1 (2) The amount of the delinquent assessment plus fees
2 established under section 7 of this chapter.

3 (3) The date the warrant was filed with the clerk.

4 (d) When an entry is made by the circuit court clerk under
5 subsection (c), the total amount of the warrant becomes a judgment
6 warrant against the person owing the delinquent assessment. The
7 judgment warrant creates a lien in favor of the state that attaches
8 to all the person's interest in any:

9 (1) chose in action in the county; and

10 (2) real or personal property in the county;

11 excepting only negotiable instruments not yet due. The circuit
12 court clerk shall mail a copy of the judgment warrant by certified
13 mail to the person named in the warrant to the person's last known
14 address within five (5) days of the warrant's filing with the clerk.

15 Sec. 7. After an uncollected judgment warrant is assigned to the
16 department for collection or after a warrant is issued on a
17 delinquent assessment under section 6(d) of this chapter, the
18 department may assess the following fees:

19 (1) A collection fee equal to ten percent (10%) of the total
20 amount due.

21 (2) Interest, penalties, sheriff's costs, clerk's costs, and
22 reasonable fees established under subdivision (3).

23 (3) The commissioner and the budget agency shall set the fee
24 that the special counsel or collection agency will receive and
25 payment of the fee shall be made after a claim for that fee has
26 been approved by the department.

27 (4) The fees become due and owing by the person upon the
28 filing of an amended judgment warrant with the circuit court
29 clerk adding the fees authorized by this section to the amount
30 of the judgment warrant.

31 (5) If the judgment warrant is final and not subject to
32 amendment, the fee established under this section shall be
33 collected from postjudgment interest assessed on the
34 judgment.

35 (6) All amounts collected by the department other than the
36 fees assessed under this section shall be remitted to the local
37 unit by the department.

38 Sec. 8. The department may, without judicial proceedings, take
39 one (1) or more of the following actions with respect to the person
40 named in the judgment warrant:

41 (1) The department may levy upon the property of the person
42 that is held by a financial institution by sending a claim to the

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1 financial institution. Upon receipt of a claim under this
 2 subdivision, the financial institution shall surrender to the
 3 department the person's property. If the person's property
 4 exceeds the amount owed by the person, the financial
 5 institution shall surrender the person's property in an amount
 6 equal to the amount owed. After receiving the department's
 7 notice of levy, the financial institution shall place a sixty (60)
 8 day hold or restriction on the withdrawal of funds the person
 9 has on deposit or subsequently deposits, in an amount not to
 10 exceed the amount owed.

11 (2) The department may garnish the accrued earnings and
 12 wages of the person by sending a notice to the person's
 13 employer. Upon receipt of a notice under this subdivision, an
 14 employer shall garnish the accrued earnings and wages of the
 15 individual in an amount equal to the full amount that is
 16 subject to garnishment under IC 24-4.5-5. The employer shall
 17 remit the amount garnished to the department. The employer
 18 is entitled to a fee in an amount equal to the fee allowed under
 19 IC 24-4.5-5-105(5). However, the fee shall be borne entirely by
 20 the person.

21 (3) The department may levy upon and sell property and may:

22 (A) take immediate possession of the property and store it
 23 in a secure place; or

24 (B) leave the property in the custody of the person;
 25 until the day of the sale. The department shall provide notice
 26 of the sale in one (1) newspaper, as provided in IC 5-3-1-2. If
 27 the property is left in the custody of the person, the
 28 department may require the person to provide a joint and
 29 several delivery bond, in an amount and with a surety
 30 acceptable to the department. At any time before the sale, any
 31 owner or part owner of the property may redeem the
 32 property from the judgment by paying the department the
 33 amount of the judgment. The proceeds of the sale shall be
 34 applied first to the collection expenses and second to the
 35 payment of the delinquent overpayment. Any balance
 36 remaining shall be paid to the person.

37 (4) The department may use the data match system
 38 established under IC 6-8.1-8-8.7 for collection of judgments
 39 under this chapter.

40 Sec. 9. (a) When the department collects a judgment warrant
 41 under this chapter, the department may proceed in the same
 42 manner that any debt due the state is collected, except as provided

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1 in this chapter. The department may employ special counsel or
2 contract with a collection agency for the collection of a judgment
3 plus interest, penalties, collection fees, sheriff's costs, clerk's costs,
4 and reasonable fees established under section 7 of this chapter.

5 (b) In contracting with a collection agency, the department shall
6 give preference to a collection agency that is headquartered and
7 domiciled in Indiana, is licensed as a debt collector in all fifty (50)
8 states, and has a demonstrated familiarity with the data match
9 system operated by the department under IC 6-8.1-8-8.7.

10 SECTION 4. IC 36-1-4-17 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) A unit may
12 compromise claims made against it.

13 (b) A unit or a person designated in writing by the unit may do the
14 following:

15 (1) Collect any money that is owed to the unit.

16 (2) Compromise the amount of money owed to the unit.

17 (c) A unit shall determine the costs of collecting money under this
18 section. The costs of collection, including reasonable attorney's fees,
19 may be added to money that is owed and collected under this
20 subsection.

21 (d) A unit or the unit's agent that collects money under this section
22 shall deposit that money, less the costs of collection, in the account
23 required by law.

24 (e) A unit may elect to participate in a program assigning
25 judgments and delinquent assessments owed to it to the
26 department of state revenue for collection under IC 6-8.1-8.5.

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