HOUSE BILL No. 1359

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-14; IC 36-7-15.1.

Synopsis: Age-restricted housing programs. Allows a redevelopment commission to establish a program for age-restricted housing. Specifies the findings that the redevelopment commission must make before adopting the age-restricted housing program. Provides that all of the rights, powers, privileges, and immunities that may be exercised by a redevelopment commission in blighted, deteriorated, or deteriorating areas may be exercised by the redevelopment commission in implementing its program for age-restricted housing, including levying a special tax, issuing bonds or entering into leases, and allocating incremental property tax revenue.

Effective: May 15, 2013.

Huston

January 22, 2013, read first time and referred to Committee on Local Government.

C o p y

Introduced

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. 1359

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-7-14-49 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 49. (a) A commission may adopt a resolution to establish a program for age-restricted housing. The program:**

(1) must be limited to age-restricted housing that satisfies the requirements of 42 U.S.C. 3607 (the federal Housing for Older Persons Act);

(2) may include any relevant elements the commission considers appropriate;

(3) may be adopted as part of a redevelopment plan or an amendment to a redevelopment plan; and

(4) may establish an allocation area for purposes of sections 39 and 50 of this chapter for the accomplishment of the program.

The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.

(b) The notice and hearing provisions of sections 17 and 17.5 of

this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any age-restricted housing program to the commission, the department of redevelopment:

(1) shall consult with persons interested in or affected by the proposed program; and

(2) shall hold public meetings in the areas to be affected by the proposed program to obtain the views of affected persons.

SECTION 2. IC 36-7-14-50 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 50. (a) Except as provided in subsection (b), all the rights, powers, privileges, and immunities that may be exercised by a commission in blighted, deteriorated, or deteriorating areas may be exercised by a commission in implementing its program for age-restricted housing, including the following:**

(1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the purposes of the age-restricted housing program.

(2) Bonds may be issued under this chapter to accomplish the purposes of the age-restricted housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area established under section 51 of this chapter, except for refunding bonds or bonds issued in an amount necessary to complete an age-restricted housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the purposes of the age-restricted housing program.

(4) The tax exemptions set forth in section 37 of this chapter are applicable.

(5) Property taxes may be allocated under section 39 of this chapter.

(b) A commission may not exercise the power of eminent domain in implementing its age-restricted housing program.

SECTION 3. IC 36-7-14-51 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 51. (a) A commission must make the following findings in the resolution adopting an age-restricted housing program under section 49 of this chapter:**

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(1) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:

(A) the lack of public improvements;

(B) the existence of improvements or conditions that lower the value of the land below that of nearby land; or

(C) other similar conditions.

(2) The public health and welfare will be benefited by accomplishment of the purposes of the program.

(3) The accomplishment of the purposes of the program will be of public utility and benefit as measured by:

(A) an increase in the property tax base;

(B) encouraging an age-diverse population in the unit; or

(C) other similar public benefits.

(4) The program will enable the unit to encourage older residents to locate or relocate to the unit.

(5) The program will not increase the school-age population.

(b) Any program for age-restricted housing established under this section and subject to the provisions of section 52 of this chapter may not require a developer, owner, or other interested party of any proposed or existing development to comply with any provisions of this section or the provisions of section 52 of this chapter unless the commission or its designated agent receives a notarized writing signed by the owner or owners of record of a development within the program area affirmatively indicating the owner's or owners' consent to comply. If the commission or its designated agent receives such a consent, the consenting party or the commission may terminate the application of this section to the proposed or existing development only if the commission and the consenting party agree to do so.

SECTION 4. IC 36-7-14-52 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 52. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of the purposes of an age-restricted housing program adopted under section 49 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.**

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for an age-restricted housing

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program adopted under section 49 of this chapter may be used only for purposes related to the accomplishment of the purposes of the program, including, but not limited to, the following:

(1) The construction of any infrastructure (including streets, sidewalks, and sewers) or local public improvements in, serving, or benefiting the allocation area.

(2) The acquisition of real property and interests in real property within the allocation area.

(3) The preparation of real property in anticipation of development of the real property within the allocation area.

(4) To do any of the following:

(A) Pay the principal of and interest on bonds or any other obligations payable from allocated tax proceeds in the allocation area that are incurred by the redevelopment district for the purpose of financing or refinancing the age-restricted housing program established under section 49 of this chapter for the allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in the allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in the allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to the allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in the allocation area.

(F) Make payments on leases payable from allocated tax proceeds in the allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by the unit for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to the allocation area.

(c) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for an age-restricted housing program adopted under section 49 of this

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chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:

(A) make the distribution required under section 39(b)(2) of this chapter;

(B) make, when due, principal and interest payments on bonds described in section 39(b)(3) of this chapter;

(C) pay the amount necessary for other purposes described in section 39(b)(3) of this chapter; and

(D) reimburse the county or municipality for anticipated expenditures described in subsection (b)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

SECTION 5. IC 36-7-15.1-59 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 59. (a) A commission may adopt a resolution to establish a program for age-restricted housing. The program:**

(1) must be limited to age-restricted housing that satisfies the requirements of 42 U.S.C. 3607 (the federal Housing for Older Persons Act);

(2) may include any relevant elements the commission considers appropriate;

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(3) may be adopted as part of a redevelopment plan or an amendment to a redevelopment plan; and

(4) may establish an allocation area for purposes of sections 26 and 60 of this chapter for the accomplishment of the program.

The program must be approved by the legislative body of the consolidated city as specified in section 9 of this chapter.

(b) The notice and hearing provisions of sections 10 and 10.5 of this chapter, including notice under section 10(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 11 of this chapter.

(c) Before formal submission of any age-restricted housing program to the commission, the department of redevelopment:

(1) shall consult with persons interested in or affected by the proposed program; and

(2) shall hold public meetings in the areas to be affected by the proposed program to obtain the views of affected persons.

SECTION 6. IC 36-7-15.1-60 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 60. (a) Except as provided in subsection (b), all the rights, powers, privileges, and immunities that may be exercised by a commission in blighted, deteriorated, or deteriorating areas may be exercised by a commission in implementing its program for age-restricted housing, including the following:**

(1) The special tax levied in accordance with section 19 of this chapter may be used to accomplish the purposes of the age-restricted housing program.

(2) Bonds may be issued under this chapter to accomplish the purposes of the age-restricted housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area established under section 61 of this chapter, except for refunding bonds or bonds issued in an amount necessary to complete an age-restricted housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the purposes of the age-restricted housing program.

(4) The tax exemptions set forth in section 25 of this chapter are applicable.

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(5) Property taxes may be allocated under section 26 of this chapter.

(b) A commission may not exercise the power of eminent domain in implementing its age-restricted housing program.

SECTION 7. IC 36-7-15.1-61 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 61. (a) A commission must make the following findings in the resolution adopting an age-restricted housing program under section 59 of this chapter:**

(1) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:

(A) the lack of public improvements;

(B) the existence of improvements or conditions that lower the value of the land below that of nearby land; or

(C) other similar conditions.

(2) The public health and welfare will be benefited by accomplishment of the purposes of the program.

(3) The accomplishment of the purposes of the program will be of public utility and benefit as measured by:

(A) an increase in the property tax base;

(B) encouraging an age-diverse population in the unit; or

(C) other similar public benefits.

(4) The program will enable the unit to encourage older residents to locate or relocate to the unit.

(5) The program will not increase the school-age population.

(b) Any program for age-restricted housing established under this section and subject to the provisions of section 62 of this chapter may not require a developer, owner, or other interested party of any proposed or existing development to comply with any provisions of this section or the provisions of section 62 of this chapter unless the commission or its designated agent receives a notarized writing signed by the owner or owners of record of a development within the program area affirmatively indicating the owner's or owners' consent to comply. If the commission or its designated agent receives such a consent, the consenting party or the commission may terminate the application of this section to the proposed or existing development only if the commission and the consenting party agree to do so.

SECTION 8. IC 36-7-15.1-62 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: **Sec. 62. (a) Notwithstanding section**

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26(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of the purposes of an age-restricted housing program adopted under section 59 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 26(h) of this chapter.

(b) The allocation fund established under section 26(b) of this chapter for the allocation area for an age-restricted housing program adopted under section 59 of this chapter may be used only for purposes related to the accomplishment of the purposes of the program, including, but not limited to, the following:

(1) The construction of any infrastructure (including streets, sidewalks, and sewers) or local public improvements in, serving, or benefiting the allocation area.

(2) The acquisition of real property and interests in real property within the allocation area.

(3) The preparation of real property in anticipation of development of the real property within the allocation area.

(4) To do any of the following:

(A) Pay the principal of and interest on bonds or any other obligations payable from allocated tax proceeds in the allocation area that are incurred by the redevelopment district for the purpose of financing or refinancing the age-restricted housing program established under section 59 of this chapter for the allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in the allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in the allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to the allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in the allocation area.

(F) Make payments on leases payable from allocated tax proceeds in the allocation area under section 17.1 of this

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chapter.

(G) Reimburse the unit for expenditures made by the unit for local public improvements (which include buildings, parking facilities, and other items described in section 17(a) of this chapter) that are physically located in or physically connected to the allocation area.

(c) Notwithstanding section 26(b) of this chapter, the commission shall, relative to the allocation fund established under section 26(b) of this chapter for an allocation area for an age-restricted housing program adopted under section 59 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which the assessed value of the taxable property in the allocation area for the most recent assessment date minus the base assessed value, when multiplied by the estimated tax rate of the allocation area, will exceed the amount of assessed value needed to produce the property taxes necessary to:

(A) make the distribution required under section 26(b)(2) of this chapter;

(B) make, when due, principal and interest payments on bonds described in section 26(b)(3) of this chapter;

(C) pay the amount necessary for other purposes described in section 26(b)(3) of this chapter; and

(D) reimburse the county or municipality for anticipated expenditures described in subsection (b)(2).

(2) Provide a written notice to the county auditor, the fiscal body of the county or municipality that established the department of redevelopment, and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 26(b)(1) of this chapter; or

(B) state that the commission has determined that there is no excess assessed value that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess assessed value determined by the commission.

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1 SECTION 9. **An emergency is declared for this act.**

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