January 25, 2013

SENATE BILL No. 433

DIGEST OF SB 433 (Updated January 24, 2013 9:40 am - DI 87)

Citations Affected: IC 6-1.1; IC 36-7.

Synopsis: Abandoned property. Establishes a procedure to permit a county executive to dispose of certain properties that did not sell at the tax sale to a person able to repair and maintain the properties. Provides that before the county executive may transfer properties that did not sell at a tax sale to a nonprofit corporation, an abutting property owner, or a person satisfactorily able to repair and maintain the property, a person with a substantial interest in the property must be given an opportunity to redeem the property. Removes a requirement that the county executive's sale of a certain contiguous vacant parcel to an adjoining property owner may be conducted only if construction of a residential dwelling is permitted on the vacant parcel. Requires certain notices under the unsafe building law be served on each person with a known or recorded substantial property interest. Authorizes a municipality or county to bring an action to collect unpaid expenses relating to the abatement of high weeds and grass. (Under current law, the municipality or county may obtain only a lien on the property containing the high weeds and grass.)

Effective: July 1, 2013.

Paul

January 10, 2013, read first time and referred to Committee on Local Government.
January 24, 2013, amended, reported favorably — Do Pass.

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January 25, 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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SENATE BILL No. 433

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

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

SECTION 1. IC 6-1.1-24-6.1, AS AMENDED BY P.L.56-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.1. (a) The county executive may do the following:

(1) By resolution, identify properties:

(A) that are described in section 6.7(a) **or 6.9(a)** of this chapter; and

(B) concerning which the county executive desires to offer to the public the certificates of sale acquired by the county executive under section 6 of this chapter.

(2) In conformity with IC 5-3-1-4, publish:

(A) notice of the date, time, and place for a public sale; and

(B) a listing of parcels on which certificates will be offered by parcel number and minimum bid amount;

once each week for three (3) consecutive weeks, with the final advertisement being not less than thirty (30) days before the sale date. The expenses of the publication shall be paid out of the

county general fund.

(3) Sell each certificate of sale covered by the resolution for a price that:

(A) is less than the minimum sale price prescribed by section 5 of this chapter; and

(B) includes any costs to the county executive directly attributable to the sale of the certificate of sale.

(b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:

(1) include a description of the property by parcel number and common address;

(2) specify that the county executive will accept bids for the certificates of sale for the price referred to in subsection (a)(3);

(3) specify the minimum bid for each parcel;

(4) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:

(A) the amount of the minimum bid under section 5 of this chapter for which the tract or item of real property was last offered for sale;

(B) ten percent (10%) of the amount for which the certificate is sold;

(C) the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;

(D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property;

(E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and

(F) all costs of sale, advertising costs, and other expenses of the county directly attributable to the sale of certificates of sale; and

(5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5 of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 2. IC 6-1.1-24-6.7, AS AMENDED BY P.L.1-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2013]: Sec. 6.7. (a) The county executive may:

(1) by resolution, identify the property described under section 6 of this chapter ~~that~~ **for which** the county executive desires to transfer **the certificate of sale** to a nonprofit corporation for use for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the ~~property~~ **certificate of sale** to a nonprofit corporation.

(b) Notice of the property identified under subsection (a) and the date, time, and place for the hearing on the proposed transfer of the ~~property~~ **certificate of sale** on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by nonprofit corporations as provided in subsection (d) and hear any opposition to a proposed transfer.

(c) After the hearing set under subsection (a), the county executive shall by resolution make a final determination concerning:

(1) the ~~properties~~ **certificates of sale** that are to be transferred to a nonprofit corporation;

(2) the nonprofit corporation to which each ~~property~~ **certificate of sale** is to be transferred; and

(3) the terms and conditions of the transfer.

(d) To be eligible to receive ~~property~~ **a certificate of sale** under this section, a nonprofit corporation must file an application with the county executive. The application must state the ~~property~~ **certificate of sale** that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area.

(e) After the hearing set under subsection (a) and the final determination of ~~properties~~ **certificates of sale** to be transferred under subsection (c), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the ~~county auditor to prepare a deed transferring the property to the~~ nonprofit

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corporation **shall be entitled to a tax deed prepared by the county auditor, if the conditions of IC 6-1.1-25-4.5 are satisfied.** The deed shall provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive; and

(4) the reversion of the property to the county executive if the grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or IC 6-1.1-24, or both.

SECTION 3. IC 6-1.1-24-6.8, AS ADDED BY P.L.98-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.8. (a) For purposes of this section, in a county containing a consolidated city "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.

(b) As used in this section, "vacant parcel" refers to a parcel that satisfies all the following:

(1) A lien has been acquired on the parcel under section 6(a) of this chapter.

(2) The parcel is unimproved on the date the **certificate of sale of the** parcel is offered for sale under this chapter.

~~(3) The construction of a structure intended for residential use on the parcel is permitted by law.~~

~~(4)~~ **(3)** On the date **the certificate of sale for** the parcel is offered for sale under this chapter, the parcel is contiguous to one (1) or more parcels that satisfy the following:

(A) One (1) or more of the following are located on the contiguous parcel:

(i) A structure occupied for residential use.

(ii) A structure used in conjunction with a structure occupied for residential use.

(B) The contiguous parcel is eligible for the standard deduction under IC 6-1.1-12-37.

(c) The county legislative body may, by ordinance, establish criteria for the identification of vacant parcels **for which the certificates of sale are** to be offered for sale under this section. The criteria may

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include the following:

(1) Limitations on the use of the parcel under local zoning and land use requirements.

(2) Minimum parcel area sufficient for construction of improvements.

(3) Any other factor considered appropriate by the county legislative body.

In a county containing a consolidated city, the county legislative body may adopt an ordinance under this subsection only upon recommendation by the board of commissioners provided in IC 36-3-3-10.

(d) If the county legislative body adopts an ordinance under subsection (c), the county executive shall for each tax sale:

(1) by resolution, identify each vacant parcel ~~that~~ **for which** the county executive desires to sell **the certificate of sale** under this section; and

(2) subject to subsection (e), give written notice to the owner of record of each parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** that is contiguous to the vacant parcel.

(e) The notice under subsection (d)(2) with respect to each vacant parcel must include at least the following:

(1) A description of the vacant parcel by:

(A) legal description; and

(B) parcel number or street address, or both.

(2) Notice that the county executive will accept written applications from owners of parcels described in subsection ~~(b)(4)~~ **(b)(3)** as provided in subsection (f).

(3) Notice of the deadline for applications referred to in subdivision (2) and of the information to be included in the applications.

(4) Notice that the **certificate of sale of the** vacant parcel will be sold to the successful applicant for one dollar ($1).

(5) Notice of the exemption provisions of subsection (l).

(f) To be eligible to purchase **the certificate of sale for** a vacant parcel under this section, the owner of a contiguous parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** must file a written application with the county executive. The application must:

(1) identify the ~~vacant parcel~~ **certificate of sale** that the applicant desires to purchase; and

(2) include any other information required by the county executive.

(g) If more than one (1) application to purchase a single vacant

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parcel is filed with the county executive, the county executive shall conduct a drawing between or among the applicants in which each applicant has an equal chance to be selected as the transferee of the **certificate of sale of the** vacant parcel.

(h) The county executive shall by resolution make a final determination concerning the ~~vacant parcels~~ **certificates of sale** that are to be sold under this section.

(i) After the final determination of vacant parcels to be sold under subsection (h), the county executive shall:

(1) on behalf of the county, cause all delinquent taxes, special assessments, penalties, interest, and costs of sale with respect to the vacant parcels to be removed from the tax duplicate;

(2) give notice of the final determination to:

(A) the successful applicant;

(B) the county auditor; and

(C) the township assessor, or the county assessor if there is no township assessor for the township.

(j) Upon receipt of notice under subsection (i)(2):

(1) the county auditor shall:

(A) collect the purchase price from each successful applicant; and

(B) subject to subsection (k), prepare a **tax** deed transferring each vacant parcel to the successful applicant **if the conditions of IC 6-1.1-25-4.5 are satisfied;** and

(2) the township assessor or county assessor shall consolidate each vacant parcel sold and the contiguous parcel owned by the successful applicant into a single parcel.

(k) The county auditor shall include in the **tax** deed prepared under subsection (j)(1)(B) reference to the exemption under subsection (l).

(l) Except as provided in subsection (m), each consolidated parcel referred to in subsection (j)(2) is entitled to an exemption from property taxation beginning on the assessment date that next succeeds the consolidation in the amount of the assessed value at the time of consolidation of the vacant parcel that was subject to the consolidation.

(m) The exemption under subsection (l) is terminated as of the assessment date that next succeeds the earlier of the following:

(1) Five (5) years after the transfer of title to the successful applicant.

(2) The first transfer of title to the consolidated parcel that occurs after the consolidation.

SECTION 4. IC 6-1.1-24-6.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2013]: **Sec. 6.9. (a) The county executive may:**

(1) by resolution, identify the property described under section 6 of this chapter for which the county executive desires to transfer the certificate of sale to a person able to satisfactorily repair and maintain the property, if repair and maintenance of the property are in the public interest; and

(2) set a date, time, and place for a public hearing to consider the transfer of the certificate of sale to a person.

(b) Notice of the property identified under subsection (a) and the date, time, and place for the hearing on the proposed transfer of the certificate of sale on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by persons able to satisfactorily repair and maintain the property as provided in subsection (d) and hear any opposition to a proposed transfer.

(c) After the hearing set under subsection (a), the county executive shall by resolution make a final determination concerning:

(1) the certificates of sale that are to be transferred;

(2) the person to which each certificate of sale is to be transferred; and

(3) the terms and conditions of the transfer.

(d) To be eligible to receive a certificate of sale under this section, a person must file an application with the county executive. The application must state the certificate of sale that the person desires to acquire, the use to be made of the property, and the time anticipated for implementation of the use. The application must be accompanied by documentation demonstrating the person's ability to satisfactorily repair and maintain the property, including evidence of the person's:

(1) ability to repair and maintain the property personally, if applicable;

(2) financial resources, if the services of a contractor may be required to satisfactorily repair or maintain the property; and

(3) previous experience in repairing or maintaining property, if applicable.

The application must be signed by the person. If more than one (1)

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application for a single property is filed, the county executive shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood, the suitability of the stated use for the property and the surrounding area, and the likelihood that the person will satisfactorily repair and maintain the property. The county executive may require the person to pay a reasonable deposit or post a performance bond, not exceeding twenty-five percent (25%) of the delinquent taxes, special assessments, penalties, interest, and costs of sale of the property, to be forfeited if the person does not satisfactorily repair and maintain the property.

(e) After the hearing set under subsection (a) and the final determination of certificates of sale to be transferred under subsection (c), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the person shall be entitled to a tax deed if the conditions of IC 6-1.1-25-4.5 are satisfied. The deed must provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive;

(4) the reversion of the property to the county executive if the grantee fails to comply with the terms and conditions; and

(5) the forfeiture of any bond or deposit to the county executive if the grantee fails to comply with the terms and conditions.

If the grantee fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or IC 6-1.1-24, or both.

SECTION 5. IC 36-7-9-5, AS AMENDED BY P.L.1-2010, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

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(3) extermination of vermin in and about the unsafe premises;
(4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;
(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;
(6) demolition and removal of part of an unsafe building;
(7) demolition and removal of an unsafe building if:
(A) the general condition of the building warrants removal; or
(B) the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and
(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:
(A) sealing against intrusion by unauthorized persons and the effects of weather;
(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and
(C) continuing maintenance and upkeep of the building and premises;
in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:
(1) the name of the person to whom the order is issued;
(2) the legal description or address of the unsafe premises that are the subject of the order;
(3) the action that the order requires;
(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;
(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;
(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10)

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days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 8 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

(e) Notice of the order shall be given to each person with a known or recorded substantial property interest.

SECTION 6. IC 36-7-10.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. **(a) Except as provided in subsection (b),** if the owner of real property fails to pay a bill issued under section 3 of this chapter within the time specified in the ordinance, the department specified in the ordinance shall certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipality or county.

(b) If the owner of real property fails to pay a bill issued under section 3 of this chapter within the time specified in the ordinance, the municipality or county may bring an action in an appropriate

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court to collect the amount of the bill, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the municipality or county obtains a judgment under this subsection, the municipality or county may obtain a lien in the amount of the judgment on any real or personal property of the owner.

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 433, 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 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-24-6.7, AS AMENDED BY P.L.1-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.7. (a) The county executive may:

(1) by resolution, identify the property described under section 6 of this chapter ~~that~~ **for which** the county executive desires to transfer **the certificate of sale** to a nonprofit corporation for use for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the ~~property~~ **certificate of sale** to a nonprofit corporation.

(b) Notice of the property identified under subsection (a) and the date, time, and place for the hearing on the proposed transfer of the ~~property~~ **certificate of sale** on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by nonprofit corporations as provided in subsection (d) and hear any opposition to a proposed transfer.

(c) After the hearing set under subsection (a), the county executive shall by resolution make a final determination concerning:

(1) the ~~properties~~ **certificates of sale** that are to be transferred to a nonprofit corporation;

(2) the nonprofit corporation to which each ~~property~~ **certificate of sale** is to be transferred; and

(3) the terms and conditions of the transfer.

(d) To be eligible to receive ~~property~~ **a certificate of sale** under this section, a nonprofit corporation must file an application with the county executive. The application must state the ~~property~~ **certificate of sale** that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be

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accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area.

(e) After the hearing set under subsection (a) and the final determination of ~~properties~~ **certificates of sale** to be transferred under subsection (c), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the ~~county auditor to prepare a deed transferring the property to the~~ nonprofit corporation **shall be entitled to a tax deed prepared by the county auditor, if the conditions of IC 6-1.1-25-4.5 are satisfied.** The deed shall provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive; and

(4) the reversion of the property to the county executive if the grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or IC 6-1.1-24, or both.".

Page 3, line 8, after "date the" insert "**certificate of sale of the**".

Page 3, line 12, after "date" insert "**the certificate of sale for**".

Page 3, line 23, after "parcels" insert "**for which the certificates of sale are**".

Page 3, line 37, strike "that" and insert "**for which**".

Page 3, line 38, after "sell" insert "**the certificate of sale**".

Page 4, line 11, after "that the" insert "**certificate of sale of the**".

Page 4, line 14, after "purchase" insert "**the certificate of sale for**".

Page 4, line 18, strike "vacant parcel" and insert "**certificate of sale**".

Page 4, line 25, after "of the" insert "**certificate of sale of the**".

Page 4, line 28, strike "vacant parcels" and insert "**certificates of sale**".

Page 5, line 2, after "a" insert "**tax**".

Page 5, line 3, delete ";" and insert "**if the conditions of IC 6-1.1-25-4.5 are satisfied;**".

Page 5, line 7, after "in the" insert "**tax**".

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Page 5, line 25, delete "that" and insert "**for which**".
Page 5, line 26, after "transfer" insert "**the certificate of sale**".
Page 5, line 30, delete "property" and insert "**certificate of sale**".
Page 5, line 33, delete "property" and insert "**certificate of sale**".
Page 6, line 2, delete "properties" and insert "**certificates of sale**".
Page 6, line 3, delete "property" and insert "**certificate of sale**".
Page 6, line 5, delete "property" and insert "**a certificate of sale**".
Page 6, line 7, delete "property" and insert "**certificate of sale**".
Page 6, line 32, delete "properties" and insert "**certificates of sale**".
Page 6, line 35, delete "shall cause the" and insert "**the person shall be entitled to a tax deed if the conditions of IC 6-1.1-25-4.5 are satisfied.**".
Page 6, delete line 36.
Page 6, line 37, delete "person.".
Page 9, delete lines 6 through 42.
Page 10, delete lines 1 through 15.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 433 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 0.

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