

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1544, 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:

- 1 Page 41, between lines 4 and 5, begin a new paragraph and insert:
2 "SECTION 19. IC 6-1.1-20.6-4, AS AMENDED BY P.L.131-2008,
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 MARCH 1, 2013 (RETROACTIVE)]: Sec. 4. As used in this chapter,
5 "residential property" refers to real property that consists of any of the
6 following:
7 (1) A single family dwelling that is not part of a homestead and
8 the land, not exceeding one (1) acre, on which the dwelling is
9 located.
10 (2) Real property that consists of:
11 (A) a building that includes two (2) or more dwelling units;
12 (B) any common areas shared by the dwelling units (**including**
13 **any land that is a common area, as described in section**
14 **1.2(2) of this chapter**); and
15 (C) the land **not exceeding the area of the building footprint**,
16 on which the building is located.
17 (3) Land rented or leased for the placement of a manufactured
18 home or mobile home, including any common areas shared by the
19 manufactured homes or mobile homes.
20 SECTION 20. IC 6-1.1-26-5, AS AMENDED BY P.L.120-2012,
21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2013]: Sec. 5. (a) When a claim for refund filed under section
 2 1 of this chapter is allowed either by the county board of
 3 commissioners, the department of local government finance, the
 4 Indiana board, or the Indiana tax court on appeal, the claimant is
 5 entitled to a refund. The amount of the refund shall equal the amount
 6 of the claim so allowed plus, with respect to claims for refund filed
 7 after December 31, 2001, interest at the rate established for excess tax
 8 payments by the commissioner of the department of state revenue
 9 under IC 6-8.1-10-1 from the date on which the taxes were paid or
 10 payable, whichever is later, to the date of the refund. **The interest shall**
 11 **be calculated at the rate in effect for each year of the refund.** The
 12 county auditor shall, without an appropriation being required, issue a
 13 warrant to the claimant payable from the county general fund for the
 14 amount due the claimant under this section.

15 (b) In the June or December settlement and apportionment of taxes,
 16 or both the June and December settlement and apportionment of taxes,
 17 immediately following a refund made under this section the county
 18 auditor shall deduct the amount refunded from the gross tax collections
 19 of the taxing units for which the refunded taxes were originally paid
 20 and shall pay the amount so deducted into the general fund of the
 21 county. However, the county auditor shall make the deductions and
 22 payments required by this subsection not later than the December
 23 settlement and apportionment.

24 SECTION 21. IC 6-1.1-37-9, AS AMENDED BY P.L.120-2012,
 25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2013]: Sec. 9. (a) This section applies when:

- 27 (1) an assessment is made or increased after the date or dates on
 28 which the taxes for the year for which the assessment is made
 29 were originally due;
- 30 (2) the assessment upon which a taxpayer has been paying taxes
 31 under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a
 32 petition for review or a judicial proceeding has been pending is
 33 less than the assessment that results from the final determination
 34 of the petition for review or judicial proceeding; or
- 35 (3) the collection of certain ad valorem property taxes has been
 36 enjoined under IC 33-26-6-2, and under the final determination of
 37 the petition for judicial review the taxpayer is liable for at least
 38 part of those taxes.

39 (b) Except as provided in subsections (c) and (g), a taxpayer shall
 40 pay interest on the taxes the taxpayer is required to pay as a result of an
 41 action or a determination described in subsection (a) at the rate
 42 established by the commissioner of the department of state revenue

1 under IC 6-8.1-10-1 from the original due date or dates for those taxes
2 to:

- 3 (1) the date of payment; or
- 4 (2) the date on which penalties for the late payment of a tax
5 installment may be charged under subsection (e) or (f);

6 whichever occurs first. **The interest shall be calculated at the rate in
7 effect for each year from the original due date or dates for those
8 taxes to the later of the dates described in subdivisions (1) and (2).**

9 (c) Except as provided in subsection (g), a taxpayer shall pay
10 interest on the taxes the taxpayer is ultimately required to pay in excess
11 of the amount that the taxpayer is required to pay under
12 IC 6-1.1-15-10(a)(1) while a petition for review or a judicial
13 proceeding has been pending at the overpayment rate established under
14 Section 6621(c)(1) of the Internal Revenue Code in effect on the
15 original due date or dates for those taxes from the original due date or
16 dates for those taxes to:

- 17 (1) the date of payment; or
 - 18 (2) the date on which penalties for the late payment of a tax
19 installment may be charged under subsection (e) or (f);
- 20 whichever occurs first.

21 (d) With respect to an action or determination described in
22 subsection (a), the taxpayer shall pay the taxes resulting from that
23 action or determination and the interest prescribed under subsection (b)
24 or (c) on or before:

- 25 (1) the next May 10; or
- 26 (2) the next November 10;

27 whichever occurs first.

28 (e) A taxpayer shall, to the extent that the penalty is not waived
29 under section 10.1 or 10.7 of this chapter, begin paying the penalty
30 prescribed in section 10 of this chapter on the day after the date for
31 payment prescribed in subsection (d) if:

- 32 (1) the taxpayer has not paid the amount of taxes resulting from
33 the action or determination; and
- 34 (2) the taxpayer either:
 - 35 (A) received notice of the taxes the taxpayer is required to pay
36 as a result of the action or determination at least thirty (30)
37 days before the date for payment; or
 - 38 (B) voluntarily signed and filed an assessment return for the
39 taxes.

40 (f) If subsection (e) does not apply, a taxpayer who has not paid the
41 amount of taxes resulting from the action or determination shall, to the
42 extent that the penalty is not waived under section 10.1 or 10.7 of this

1 chapter, begin paying the penalty prescribed in section 10 of this
2 chapter on:

3 (1) the next May 10 which follows the date for payment
4 prescribed in subsection (d); or

5 (2) the next November 10 which follows the date for payment
6 prescribed in subsection (d);

7 whichever occurs first.

8 (g) A taxpayer is not subject to the payment of interest on real
9 property assessments under subsection (b) or (c) if:

10 (1) an assessment is made or increased after the date or dates on
11 which the taxes for the year for which the assessment is made
12 were due;

13 (2) the assessment or the assessment increase is made as the result
14 of error or neglect by the assessor or by any other official
15 involved with the assessment of property or the collection of
16 property taxes; and

17 (3) the assessment:

18 (A) would have been made on the normal assessment date if
19 the error or neglect had not occurred; or

20 (B) increase would have been included in the assessment on
21 the normal annual assessment date if the error or neglect had
22 not occurred.

23 SECTION 22. IC 6-1.1-37-11, AS AMENDED BY SEA 85-2013,
24 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2013]: Sec. 11. (a) If a taxpayer is entitled to a property tax
26 refund or credit because an assessment is decreased, the taxpayer shall
27 also be paid, or credited with, interest on the excess taxes that the
28 taxpayer paid at the rate of ~~four percent (4%) per annum~~ **established**
29 **for excess tax payments by the commissioner of the department of**
30 **state revenue under IC 6-8.1-10-1 from the date on which the taxes**
31 **were paid or payable, whichever is later, to the date of the refund**
32 **or credit. The interest shall be calculated at the rate in effect for**
33 **each year of the refund or credit.** However, in the case of an
34 assessment that is decreased by the Indiana board or the Indiana tax
35 court, the taxpayer is not entitled to the greater of five hundred dollars
36 (\$500) or twenty percent (20%) of the interest to which the taxpayer
37 would otherwise be entitled on the excess taxes unless the taxpayer
38 affirms, under penalty of perjury, that substantive evidence supporting
39 the taxpayer's position had been:

40 (1) presented by the taxpayer to the assessor before; or

41 (2) introduced by the taxpayer at;

42 the hearing held by the county property tax assessment board of

1 appeals. An appraisal may not be required by the county property tax
 2 assessment board of appeals or the assessor in a proceeding before the
 3 county property tax assessment board of appeals or in a preliminary
 4 informal meeting under IC 6-1.1-15-1(h)(2).

5 (b) For purposes of this section and except as provided in subsection
 6 (c), the interest shall be computed from the date on which the taxes
 7 were paid or due, whichever is later, to the date of the refund or credit.
 8 If a taxpayer is sent a provisional tax statement and is later sent a final
 9 or reconciling tax statement, interest shall be computed after the date
 10 on which the taxes were paid or first due under the provisional tax
 11 statement, whichever is later, through the date of the refund or credit.

12 (c) This subsection applies if a taxpayer who is entitled to a refund
 13 or credit does not make a written request for the refund or credit to the
 14 county auditor within forty-five (45) days after the final determination
 15 of the county property tax assessment board of appeals, the state board
 16 of tax commissioners, the department of local government finance, the
 17 Indiana board, or the tax court that entitles the taxpayer to the refund
 18 or credit. In the case of a taxpayer described in this subsection, the
 19 interest shall be computed from the date on which the taxes were paid
 20 or due to the date that is forty-five (45) days after the final
 21 determination of the county property tax assessment board of appeals,
 22 the state board of tax commissioners, the department of local
 23 government finance, the Indiana board of tax review, or the Indiana tax
 24 court. In any event, a property tax refund or credit must be issued not
 25 later than ninety (90) days after the request is received."

26 Renumber all SECTIONS consecutively.

(Reference is to HB 1544 as reprinted February 26, 2013.)

and when so amended that said bill do pass .

Committee Vote: Yeas 8, Nays 4.

Senator Hershman, Chairperson