
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Wesley R. Bennett, Commissioner

RE: Legislative Changes Regarding Economic Development Matters

DATE: June 23, 2021

The Department of Local Government Finance (“Department”) issues this memorandum to inform the public of legislative changes in matters related to economic development matters. Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law.

I. Tax Increment Financing Districts

On April 8, 2021, Governor Eric J. Holcomb signed into law House Enrolled Act 1271-2021 (“HEA 1271”). Sections 37, 57, 91-92, and 95-97 of HEA 1271 provide that a parcel of land may not be included in more than one allocation area of a tax increment financing (“TIF”) district unless the parcel was included in more than one TIF district allocation area on or before May 1, 2021. This means that a county may not include a parcel in a TIF district allocation area if it is already included in a municipal TIF district allocation area. Likewise, a municipality could not TIF a parcel that is in a county TIF district allocation area.

II. TIF Excess AV Allocation

Sections 88 through 90 of HEA 1271 amend Ind. Code § 36-7-14-39, Ind. Code § 36-7-14-48, and Ind. Code § 36-7-14-52, respectively, to require the county auditor (rather than the redevelopment commission) to report the notice of TIF excess AV allocations to the Department. This report must be forwarded no later than June 15 of each year.

III. Improvement Exemptions

On April 19, 2021, Governor Eric J. Holcomb signed into law Senate Enrolled Act 214-2021 (“SEA 214”). Section 2 of SEA 214, effective January 1, 2022, amends Ind. Code § 6-1.1-10-16.7, which currently outlines the eligibility for an exemption from property taxation for improvements on real property that were constructed, rehabilitated, or acquired for the purposes of providing low-income housing. Section 2 of SEA 214 removes specific references to qualifications for the exemption for assessments that occurred prior to January 1, 2018, and assessments that occurred after December 31, 2017. It also adds the following three (3) new statutes in which the owner of the property can enter into an agreement to make payments in lieu

of property taxes: Ind. Code § 36-1-8-14.3, Ind. Code § 36-2-6-23, or Ind. Code § 36-3-2-12 (See Sections 3, 4, and 5 of SEA 214 below). Section 2 of SEA 214 applies to assessment dates after December 31, 2021.

Sections 3, 4, and 5 of SEA 214 each outline the same requirements and procedures for a property owner and a local unit of government to enter into an agreement for a property owner to make payments in lieu of taxes for real property subject to an exemption under Ind. Code § 6-1.1-10-16.7. Each section adds a new statute to the Indiana Code and each statute addresses agreements entered into by one of the following local units of government:

- (1) A city, town, or county (other than Indianapolis/Marion County)¹;
- (2) A county (Other than Marion County)²; or
- (3) Indianapolis/Marion County³.

Sections 3, 4, and 5 of SEA 214 are all effective January 1, 2022, and apply to assessment dates after December 31, 2021.

Sections 3, 4, and 5 of SEA 214 each use the acronym “PILOTS” to reference payments in lieu of taxes. All three (3) sections state that the legislative or governing body of the local unit of government may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property subject to an exemption under Ind. Code § 6-1.1-10-16.7. Each section provides requirements for the calculation of the PILOTS amount, which must be:

- (1) agreed upon by the property owner and the local unit of government;
- (2) a percentage of the taxes that would have been levied by the legislative or governing body of the local unit of government; and
- (3) not more than the taxes that would have been levied by the legislative or governing body of the local unit of government if the property were not subject to an exemption from property taxation.

Each section differs in how the PILOTS collected by the local units of government are deposited or distributed.

Section 3 of SEA 214 adds Ind. Code § 36-1-8-14.3, which applies to cities, towns, or counties (other than Indianapolis/Marion County). PILOTS collected under this statute shall be deposited in the unit’s affordable housing fund established under Ind. Code § 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.

Section 4 of SEA 214 adds Ind. Code § 36-2-6-23, which applies to counties (other than Marion County). PILOTS collected under this statute shall be distributed in the same manner as if they were property taxes being distributed to taxing units in the county. Ind. Code § 36-2-6-23 serves as an additional option for counties.

¹ Ind. Code § 36-1-8-14.3(j).

² Ind. Code § 36-2-6-23(d).

³ Ind. Code § 36-3-2-12(d).

Section 5 of SEA 214 adds Ind. Code § 36-3-2-12, which applies to Indianapolis/Marion County. PILOTS collected under this statute shall be deposited in the housing trust fund established under Ind. Code § 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

IV. Enterprise Zone Renewals

On April 19, 2021, Governor Eric J. Holcomb signed into law House Enrolled Act 1025-2021 (“HEA 1025”). HEA 1025 amends Ind. Code § 5-28-15-10 as it relates to Enterprise Zones. It provides that an Enterprise Zone may be renewed for an additional five-year period if the fiscal body of the municipality in which the Enterprise Zone is located adopts a resolution to renew the Enterprise Zone. It also provides that a zone business located in the renewed Enterprise Zone may only access the property tax deduction incentives available under Ind. Code § 6-1.1-45. It further provides that an Enterprise Zone may be renewed in this manner regardless of the number of times the Enterprise Zone has been previously renewed under Ind. Code § 5-28-15-10. HEA 1025 is effective July 1, 2021.

Beginning July 1, 2021, the relevant amended portion of Ind. Code § 5-28-15-10 will be as follows:

IC 5-28-15-10

Expiration of enterprise zone; renewal

...

(g) Before the expiration date of an enterprise zone, the fiscal body of the municipality in which the enterprise zone is located may adopt a resolution to renew the enterprise zone for an additional five (5) year period. A zone business in an enterprise zone renewed under this subsection may only access incentives available under IC 6-1.1-45. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been previously renewed under this section.

V. Urban Agricultural Zones

On April 29, 2021, Governor Eric J. Holcomb signed into law House Enrolled Act 1283-2021 (“HEA 1283”). HEA 1283 adds Ind. Code § 6-1.1-48, which provides a property tax exemption for a designated urban agricultural zone (“UAZ”). HEA 1283 is effective July 1, 2021.

HEA 1283 provides that a qualifying farmer may apply to a designating body to have an area designated as an UAZ. Before a designating body designating an area as an UAZ, it must hold a public hearing and allow for public comment. If a designating body designates an area as an UAZ, it may by ordinance or resolution exempt land located partially or wholly within an UAZ from property taxation.

HEA 1283 provides that if an UAZ is established, a designating body is to monitor the UAZ for compliance with the requirements of Ind. Code § 6-1.1-48 and those reasonably imposed in the

ordinance or resolution adopted by the designating body. HEA 1283 outlines the requirements for a designating body to dissolve an UAZ for noncompliance.

HEA 1283 states that the term "urban agriculture zone" does not include rooftop gardening or farming practices that occur on the top of a building or residential home. It also provides that an area of land assessed as agricultural land under Ind. Code § 6-1.1-4-13 or as a homestead (as defined in Ind. Code § 6-1.1-12-37) may not be designated as an UAZ.

HEA 1283 specifies that a designating body may not impose a special benefits tax for public services provided to an UAZ unless the designating body imposed the special benefits tax before it designated the area as an UAZ.

Contact Information

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