

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 214

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AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 5-20-5-15.5, AS AMENDED BY P.L.17-2020, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: Sec. 15.5. (a) The governing body of an eligible entity that receives a grant under this chapter shall, by resolution, establish an affordable housing fund to be administered, subject to the terms of the resolution, by a department, a division, or an agency designated by the governing body.

(b) The affordable housing fund consists of:

- (1) payments in lieu of taxes deposited in the fund under ~~IC 36-1-8-14.2 (before its expiration);~~ **IC 36-1-8-14.3;**
- (2) gifts and grants to the fund;
- (3) investment income earned on the fund's assets;
- (4) money deposited in the fund under IC 36-2-7-10; and
- (5) other funds from sources approved by the commission.

(c) The governing body shall, by resolution, establish uses for the affordable housing fund. However, the uses must be limited to:

- (1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;
- (2) paying expenses of administering the fund;

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(3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and

(4) providing technical assistance to nonprofit developers of affordable housing.

(d) The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) The governing body of an eligible entity shall notify the authority of the creation of an affordable housing fund.

SECTION 2. IC 6-1.1-10-16.7, AS AMENDED BY P.L.181-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: Sec. 16.7. (a) Except as otherwise provided in this section, **for assessment dates after December 31, 2021**, all or part of real property is exempt from property taxation if:

(1) the improvements on the real property were constructed, rehabilitated, or acquired for the purpose of providing housing to income eligible persons under the federal low income housing tax credit program under 26 U.S.C. 42;

(2) the real property is subject to an extended use agreement under 26 U.S.C. 42 as administered by the Indiana housing and community development authority; and

(3) the owner of the property has entered into an agreement to make payments in lieu of taxes under IC 36-1-8-14.2 (before its expiration), IC 36-2-6-22 (before its expiration), or IC 36-3-2-11 (before its expiration), **IC 36-1-8-14.3, IC 36-2-6-23, or IC 36-3-2-12.**

(b) For assessment dates after December 31, 2017, all or part of real property is exempt from property taxation if:

(1) the conditions specified in subsection (a)(1) through (a)(3) are met; and

(2) before January 1, 2018:

(A) the real property was exempt from property taxation under this section for one (1) or more assessment dates;

(B) a person filed an application seeking bond financing with a political subdivision with respect to the real property;

(C) a person filed an application with the Indiana housing and community development authority seeking tax credits under 26 U.S.C. 42 with respect to the real property; or



~~(D)~~ the real property was the subject of a resolution for affordable housing adopted by a political subdivision.

(e) **(b)** This section may not be construed in such a way as to:

- (1) alter the terms of an agreement with the holders of any outstanding notes, bonds, or other obligations of an issuing body;
- (2) authorize the issuing body to alter the terms of an agreement described in subdivision (1); or
- (3) impair, or authorize the issuing body to impair, the rights and remedies of any creditor of the issuing body.

SECTION 3. IC 36-1-8-14.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: **Sec. 14.3. (a) PILOTS may be imposed under this section for an assessment date occurring after December 31, 2021.**

**(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:**

- (1) Assessed value.**
- (2) Exemption.**
- (3) Owner.**
- (4) Person.**
- (5) Property taxation.**
- (6) Real property.**
- (7) Township assessor.**

**(c) As used in this section, "PILOTS" means payments in lieu of taxes.**

**(d) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7.**

**(e) Subject to the approval of a property owner, the governing body of a political subdivision may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the governing body, subject to the approval of the property owner.**

**(f) The PILOTS must be calculated so that the PILOTS are in an amount that is:**

- (1) agreed upon by the property owner and the governing body of the political subdivision;**
- (2) a percentage of the property taxes that would have been levied by the governing body for the political subdivision upon the real property described in subsection (e) if the property were not subject to an exemption from property taxation; and**



**(3) not more than the amount of property taxes that would have been levied by the governing body for the political subdivision upon the real property described in subsection (e) if the property were not subject to an exemption from property taxation.**

**(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (e). Except as provided in subsection (k), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the real property described in subsection (e) as though the property were not subject to an exemption.**

**(h) PILOTS collected under this section shall be deposited in the unit's affordable housing fund established under IC 5-20-5-15.5 and used for any purpose for which the affordable housing fund may be used.**

**(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.**

**(j) This section does not apply to a county that contains a consolidated city or to a political subdivision of the county.**

**(k) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.**

**SECTION 4. IC 36-2-6-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: Sec. 23. (a) PILOTS may be imposed under this section for an assessment date occurring after December 31, 2021.**

**(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:**

- (1) Assessed value.**
- (2) Exemption.**
- (3) Owner.**
- (4) Person.**
- (5) Property taxation.**
- (6) Real property.**
- (7) Township assessor.**

**(c) As used in this section, "PILOTS" means payments in lieu of taxes.**

**(d) As used in this section, "property owner" means the owner**



of real property described in IC 6-1.1-10-16.7 that is not located in a county containing a consolidated city.

(e) Subject to the approval of a property owner, the fiscal body of a county may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(f) The PILOTS must be calculated so that the PILOTS are in an amount that is:

- (1) agreed upon by the property owner and the legislative body of the county;
- (2) a percentage of the property taxes that would have been levied by the legislative body of the county upon the real property described in subsection (e) if the property were not subject to an exemption from property taxation; and
- (3) not more than the amount of property taxes that would have been levied by the legislative body of the county upon the real property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed in the same manner as property taxes and shall be based on the assessed value of the real property described in subsection (e). Except as provided in subsection (j), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the real property described in subsection (e) as though the property were not subject to an exemption.

(h) PILOTS collected under this section shall be distributed in the same manner as if they were property taxes being distributed to taxing units in the county.

(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

SECTION 5. IC 36-3-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: Sec. 12. (a) PILOTS may be imposed under



this section for an assessment date occurring after December 31, 2021.

(b) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- (7) Township assessor.

(c) As used in this section, "PILOTS" means payments in lieu of taxes.

(d) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county with a consolidated city.

(e) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(f) The PILOTS must be calculated so that the PILOTS are in an amount that is:

- (1) agreed upon by the property owner and the legislative body of the consolidated city;
- (2) a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (e) if the property were not subject to an exemption from property taxation; and
- (3) not more than the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (e) if the property were not subject to an exemption from property taxation.

(g) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (e). Except as provided in subsection (j), the township assessor, or the county assessor if there is no township assessor for the township, shall assess the real property described in subsection



**(e) as though the property were not subject to an exemption.**

**(h) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.**

**(i) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.**

**(j) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.**

SECTION 6. IC 36-7-15.1-35.5, AS AMENDED BY P.L.17-2020, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022]: Sec. 35.5. (a) The general assembly finds the following:

- (1) Federal law permits the sale of a multiple family housing project that is or has been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development without requiring the continuation of that project based assistance.
- (2) Such a sale displaces the former residents of a multiple family housing project described in subdivision (1) and increases the shortage of safe and affordable housing for persons of low and moderate income within the county.
- (3) The displacement of families and individuals from affordable housing requires increased expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.
- (4) The establishment of a supplemental housing program under this section will do the following:
  - (A) Benefit the health, safety, morals, and welfare of the county and the state.
  - (B) Serve to protect and increase property values in the county and the state.
  - (C) Benefit persons of low and moderate income by making affordable housing available to them.
- (5) The establishment of a supplemental housing program under this section and sections 32 through 35 of this chapter is:
  - (A) necessary in the public interest; and
  - (B) a public use and purpose for which public money may be spent and private property may be acquired.



(b) In addition to its other powers with respect to a housing program under sections 32 through 35 of this chapter, the commission may establish a supplemental housing program. Except as provided by this section, the commission has the same powers and duties with respect to the supplemental housing program that the commission has under sections 32 through 35 of this chapter with respect to the housing program.

(c) One (1) allocation area may be established for the supplemental housing program. The commission is not required to make the findings required under section 34(5) through 34(8) of this chapter with respect to the allocation area. However, the commission must find that the property contained within the boundaries of the allocation area consists solely of one (1) or more multiple family housing projects that are or have been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development or have been owned at one time by a public housing agency. The allocation area need not be contiguous. The definition of "base assessed value" set forth in section 35(a) of this chapter applies to the special fund established under section 26(b) of this chapter for the allocation area.

(d) The special fund established under section 26(b) of this chapter for the allocation area established under this section may be used only for the following purposes:

(1) Subject to subdivision (2), on January 1 and July 1 of each year the balance of the special fund shall be transferred to the housing trust fund established under subsection (e).

(2) The commission may provide each taxpayer in the allocation area a credit for property tax replacement in the manner provided by section 35(b)(7) of this chapter. Transfers made under subdivision (1) shall be reduced by the amount necessary to provide the credit.

(e) The commission shall, by resolution, establish a housing trust fund to be administered, subject to the terms of the resolution, by:

(1) the housing division of the consolidated city; or

(2) the department, division, or agency that has been designated to perform the public housing function by an ordinance adopted under IC 36-7-18-1.

(f) The housing trust fund consists of:

(1) amounts transferred to the fund under subsection (d);

(2) payments in lieu of taxes deposited in the fund under ~~IC 36-3-2-11~~ (before its expiration); **IC 36-3-2-12**;

(3) gifts and grants to the fund;





- (4) investment income earned on the fund's assets;
- (5) money deposited in the fund under IC 36-2-7-10(k) or IC 36-2-7-10.7; and
- (6) other funds from sources approved by the commission.

(g) The commission shall, by resolution, establish uses for the housing trust fund. However, the uses must be limited to:

- (1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;
- (2) paying expenses of administering the fund;
- (3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families;
- (4) providing technical assistance to nonprofit developers of affordable housing; and
- (5) funding other programs considered appropriate to meet the affordable housing and community development needs of lower income families (as defined in IC 5-20-4-5) and very low income families (as defined in IC 5-20-4-6), including lower income elderly individuals, individuals with disabilities, and homeless individuals.

(h) After June 30, 2017, at least forty percent (40%) of the money deposited in the housing trust fund shall be used for the following purposes:

- (1) To assist existing owner occupants with the repair, rehabilitation, or reconstruction of their homes.
- (2) To finance the acquisition, rehabilitation, or new construction of homes for home buyers.
- (3) To acquire, rehabilitate, or construct rental housing.

(i) At least fifty percent (50%) of the dollars allocated for production, rehabilitation, or purchase of housing must be used for units to be occupied by individuals and families whose income is at or below fifty percent (50%) of the county's area median income for individuals and families, respectively.

(j) The low income housing trust fund advisory committee is established. The low-income housing trust fund advisory committee consists of eleven (11) members. The membership of the low income



housing trust fund advisory committee is comprised of:

- (1) one (1) member appointed by the mayor, to represent the interests of low income families;
- (2) one (1) member appointed by the mayor, to represent the interests of owners of subsidized, multifamily housing communities;
- (3) one (1) member appointed by the mayor, to represent the interests of banks and other financial institutions;
- (4) one (1) member appointed by the mayor, of the department of metropolitan development;
- (5) three (3) members representing the community at large appointed by the commission, from nominations submitted to the commission as a result of a general call for nominations from neighborhood associations, community based organizations, and other social services agencies;
- (6) one (1) member appointed by and representing the Coalition for Homeless Intervention and Prevention of Greater Indianapolis;
- (7) one (1) member appointed by and representing the Local Initiatives Support Corporation;
- (8) one (1) member appointed by and representing the Indiana housing and community development authority; and
- (9) one (1) member appointed by and representing the Indianapolis Neighborhood Housing Partnership.

Members of the low income housing trust fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority who appointed the committee member.

(k) The low income housing trust fund advisory committee shall make recommendations to the commission regarding:

- (1) the development of policies and procedures for the uses of the low income housing trust fund; and
- (2) long term sources of capital for the low income housing trust fund, including:
  - (A) revenue from:
    - (i) development ordinances;
    - (ii) fees; or
    - (iii) taxes;
  - (B) financial market based income;
  - (C) revenue derived from private sources; and



(D) revenue generated from grants, gifts, donations, or income in any other form, from a:

- (i) government program;
- (ii) foundation; or
- (iii) corporation.

(l) The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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