



February 20, 2019

SENATE BILL No. 239

DIGEST OF SB 239 (Updated February 19, 2019 2:27 pm - DI 120)

Citations Affected: IC 6-1.1; IC 6-1.5.

Synopsis: Property tax assessment appeals. Repeals a statute requiring the Indiana board of tax review (board) to recommend that parties settle or mediate any case pending before the board if certain conditions are met. Provides that certain burden shifting requirements do not apply if the assessment that is the subject of the review or appeal is based on substantial renovations or new improvements. Provides that "small claim" means an appeal where the parties have elected to proceed under the board's small claims rules. (Current law defines the term as an appeal of a final determination of assessed valuation that does not exceed \$1,000,000.) Provides that a party must be able to elect out of the small claims rules.

Effective: July 1, 2019.

Freeman

January 3, 2019, read first time and referred to Committee on Tax and Fiscal Policy.
February 19, 2019, reported favorably — Do Pass.

SB 239—LS 6439/DI 134



February 20, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 239

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

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

1 SECTION 1. IC 6-1.1-15-17.2, AS AMENDED BY P.L.97-2014,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 17.2. (a) Except as provided in subsection (d), this
4 section applies to any review or appeal of an assessment under this
5 chapter if the assessment that is the subject of the review or appeal is
6 an increase of more than five percent (5%) over the assessment for the
7 same property for the prior tax year. In calculating the change in the
8 assessment for purposes of this section, the assessment to be used for
9 the prior tax year is the original assessment for that prior tax year or, if
10 applicable, the assessment for that prior tax year:
11 (1) as last corrected by an assessing official;
12 (2) as stipulated or settled by the taxpayer and the assessing
13 official; or
14 (3) as determined by the reviewing authority.
15 (b) Under this section, the county assessor or township assessor
16 making the assessment has the burden of proving that the assessment
17 is correct in any review or appeal under this chapter and in any appeals

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1 taken to the Indiana board of tax review or to the Indiana tax court. If
 2 a county assessor or township assessor fails to meet the burden of proof
 3 under this section, the taxpayer may introduce evidence to prove the
 4 correct assessment. If neither the assessing official nor the taxpayer
 5 meets the burden of proof under this section, the assessment reverts to
 6 the assessment for the prior tax year, which is the original assessment
 7 for that prior tax year or, if applicable, the assessment for that prior tax
 8 year:

- 9 (1) as last corrected by an assessing official;
 10 (2) as stipulated or settled by the taxpayer and the assessing
 11 official; or
 12 (3) as determined by the reviewing authority.

13 (c) This section does not apply to an assessment if the assessment
 14 that is the subject of the review or appeal is based on:

- 15 (1) ~~structural~~ **substantial renovations or new** improvements;
 16 (2) zoning; or
 17 (3) uses;

18 that were not considered in the assessment for the prior tax year.

19 (d) This subsection applies to real property for which the gross
 20 assessed value of the real property was reduced by the assessing
 21 official or reviewing authority in an appeal conducted under
 22 IC 6-1.1-15. However, this subsection does not apply for an assessment
 23 date if the real property was valued using the income capitalization
 24 approach in the appeal. If the gross assessed value of real property for
 25 an assessment date that follows the latest assessment date that was the
 26 subject of an appeal described in this subsection is increased above the
 27 gross assessed value of the real property for the latest assessment date
 28 covered by the appeal, regardless of the amount of the increase, the
 29 county assessor or township assessor (if any) making the assessment
 30 has the burden of proving that the assessment is correct.

31 ~~(e) This section, as amended in the 2014 regular session of the~~
 32 ~~Indiana general assembly, applies:~~

- 33 ~~(1) to all appeals or reviews pending on the effective date of the~~
 34 ~~amendments made to this section in the 2014 regular session of~~
 35 ~~the Indiana general assembly; and~~
 36 ~~(2) to all appeals or reviews filed thereafter.~~

37 SECTION 2. IC 6-1.5-1-4 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. "Small claim" means
 39 an appeal **where the parties have elected to proceed under the small**
 40 **claims rules.**

- 41 ~~(1) under IC 6-1.5-4-1 of a determination of assessed valuation of~~
 42 ~~tangible property by:~~



- 1 (A) an assessing official; or
 2 (B) the county property tax assessment board of appeals;
 3 that does not exceed one million dollars (\$1,000,000); or
 4 (2) under IC ~~6-1.5-5-1~~ of a final determination of assessed
 5 valuation of tangible property under:
 6 (A) IC ~~6-1.1-8~~; or
 7 (B) IC ~~6-1.1-16~~;
 8 by the department of local government finance that does not
 9 exceed one million dollars (\$1,000,000).
 10 SECTION 3. IC 6-1.5-3-4.5 IS REPEALED [EFFECTIVE JULY 1,
 11 2019]. Sec. 4.5: (a) The Indiana board shall recommend that the parties
 12 settle or mediate any case pending before the board as of May 1, 2015;
 13 that has not yet received a hearing; if:
 14 (1) the taxpayer's appraisal asserts a value that is more than
 15 twenty-five percent (25%) lower than the value evidenced by the
 16 assessing official applying the cost approach, less depreciation
 17 and obsolescence under the rules and guidelines of the
 18 department of local government finance; and
 19 (2) the taxpayer or the taxpayer's representative appeared before
 20 the county property tax assessment board of appeals when the
 21 appeal was heard by the county property tax assessment board of
 22 appeals.
 23 (b) The department of local government finance and the Indiana
 24 board may adopt emergency rules in the manner provided under
 25 IC 4-22-2-37.1 to implement this section.
 26 SECTION 4. IC 6-1.5-6-2 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The Indiana
 28 board may adopt rules under IC 4-22-2, including emergency rules
 29 under IC 4-22-2-37.1, to establish procedures for the conduct of
 30 proceedings before the Indiana board under this article, including
 31 procedures for:
 32 (1) prehearing conferences;
 33 (2) hearings;
 34 (3) allowing the Indiana board, upon agreement of all parties to
 35 the proceeding, to determine that a petition does not require a
 36 hearing because it presents substantially the same issue that was
 37 decided in a prior Indiana board determination;
 38 (4) voluntary arbitration;
 39 (5) voluntary mediation;
 40 (6) submission of an agreed record;
 41 (7) upon agreement of all parties to the proceedings, joinder of
 42 petitions concerning the same or similar issues; and



1 (8) small claims.
2 (b) Rules under subsection (a)(8):
3 (1) may include rules that:
4 (A) prohibit discovery;
5 (B) restrict the length of a hearing; and
6 (C) establish when a hearing is not required; and
7 (2) must ~~include rules that:~~ **allow a party to be able to elect out**
8 **of the small claims rules.**
9 (A) permit a party to a proceeding subject to the Indiana
10 board's procedures for small claims to elect that those
11 procedures do not apply to the proceeding; and
12 (B) permit an agreement among all parties to a proceeding not
13 subject to the Indiana board's procedures for small claims that
14 those procedures apply to the proceeding.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 239, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 239 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 13, Nays 0

