

SENATE BILL No. 376

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Property tax exemption for affordable housing. Establishes standards for affordable housing property to be exempt from property taxation when the property does not otherwise qualify for a property tax exemption. Specifies application requirements.

Effective: July 1, 2016.

Arnold J, Broden

January 11, 2016, read first time and referred to Committee on Appropriations.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 376

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 6-1.1-10-16, AS AMENDED BY P.L.151-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 16. (a) All or part of a building is exempt from
4 property taxation if it is owned, occupied, and used by a person for
5 educational, literary, scientific, religious, or charitable purposes.
6 (b) A building is exempt from property taxation if it is owned,
7 occupied, and used by a town, city, township, or county for educational,
8 literary, scientific, fraternal, or charitable purposes.
9 (c) A tract of land, including the campus and athletic grounds of an
10 educational institution, is exempt from property taxation if:
11 (1) a building that is exempt under subsection (a) or (b) is situated
12 on it;
13 (2) a parking lot or structure that serves a building referred to in
14 subdivision (1) is situated on it; or
15 (3) the tract:
16 (A) is owned by a nonprofit entity established for the purpose
17 of retaining and preserving land and water for their natural



- 1 characteristics;
- 2 (B) does not exceed five hundred (500) acres; and
- 3 (C) is not used by the nonprofit entity to make a profit.
- 4 (d) A tract of land is exempt from property taxation if:
- 5 (1) it is purchased for the purpose of erecting a building that is to
- 6 be owned, occupied, and used in such a manner that the building
- 7 will be exempt under subsection (a) or (b); and
- 8 (2) not more than four (4) years after the property is purchased,
- 9 and for each year after the four (4) year period, the owner
- 10 demonstrates substantial progress and active pursuit towards the
- 11 erection of the intended building and use of the tract for the
- 12 exempt purpose. To establish substantial progress and active
- 13 pursuit under this subdivision, the owner must prove the existence
- 14 of factors such as the following:
- 15 (A) Organization of and activity by a building committee or
- 16 other oversight group.
- 17 (B) Completion and filing of building plans with the
- 18 appropriate local government authority.
- 19 (C) Cash reserves dedicated to the project of a sufficient
- 20 amount to lead a reasonable individual to believe the actual
- 21 construction can and will begin within four (4) years.
- 22 (D) The breaking of ground and the beginning of actual
- 23 construction.
- 24 (E) Any other factor that would lead a reasonable individual to
- 25 believe that construction of the building is an active plan and
- 26 that the building is capable of being completed within eight (8)
- 27 years considering the circumstances of the owner.
- 28 If the owner of the property sells, leases, or otherwise transfers a tract
- 29 of land that is exempt under this subsection, the owner is liable for the
- 30 property taxes that were not imposed upon the tract of land during the
- 31 period beginning January 1 of the fourth year following the purchase
- 32 of the property and ending on December 31 of the year of the sale,
- 33 lease, or transfer. The county auditor of the county in which the tract
- 34 of land is located may establish an installment plan for the repayment
- 35 of taxes due under this subsection. The plan established by the county
- 36 auditor may allow the repayment of the taxes over a period of years
- 37 equal to the number of years for which property taxes must be repaid
- 38 under this subsection.
- 39 (e) Personal property is exempt from property taxation if it is owned
- 40 and used in such a manner that it would be exempt under subsection (a)
- 41 or (b) if it were a building.
- 42 (f) A hospital's property that is exempt from property taxation under



1 subsection (a), (b), or (e) shall remain exempt from property taxation
 2 even if the property is used in part to furnish goods or services to
 3 another hospital whose property qualifies for exemption under this
 4 section.

5 (g) Property owned by a shared hospital services organization that
 6 is exempt from federal income taxation under Section 501(c)(3) or
 7 501(e) of the Internal Revenue Code is exempt from property taxation
 8 if it is owned, occupied, and used exclusively to furnish goods or
 9 services to a hospital whose property is exempt from property taxation
 10 under subsection (a), (b), or (e).

11 (h) This section does not exempt from property tax an office or a
 12 practice of a physician or group of physicians that is owned by a
 13 hospital licensed under IC 16-21-2 or other property that is not
 14 substantially related to or supportive of the inpatient facility of the
 15 hospital unless the office, practice, or other property:

- 16 (1) provides or supports the provision of charity care (as defined
 17 in IC 16-18-2-52.5), including providing funds or other financial
 18 support for health care services for individuals who are indigent
 19 (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
 20 (2) provides or supports the provision of community benefits (as
 21 defined in IC 16-21-9-1), including research, education, or
 22 government sponsored indigent health care (as defined in
 23 IC 16-21-9-2).

24 However, participation in the Medicaid or Medicare program alone
 25 does not entitle an office, practice, or other property described in this
 26 subsection to an exemption under this section.

27 (i) A tract of land or a tract of land plus all or part of a structure on
 28 the land is exempt from property taxation if:

- 29 (1) the tract is acquired for the purpose of erecting, renovating, or
 30 improving a single family residential structure that is to be given
 31 away or sold:
 32 (A) in a charitable manner;
 33 (B) by a nonprofit organization; and
 34 (C) to low income, **as defined in section 47 of this chapter**,
 35 individuals who will:
 36 (i) use the land as a family residence; and
 37 (ii) not have an exemption for the land under this section;
 38 (2) the tract does not exceed three (3) acres;
 39 (3) the tract of land or the tract of land plus all or part of a
 40 structure on the land is not used for profit while exempt under this
 41 section; and
 42 (4) not more than four (4) years after the property is acquired for



1 the purpose described in subdivision (1), and for each year after
 2 the four (4) year period, the owner demonstrates substantial
 3 progress and active pursuit towards the erection, renovation, or
 4 improvement of the intended structure. To establish substantial
 5 progress and active pursuit under this subdivision, the owner must
 6 prove the existence of factors such as the following:

7 (A) Organization of and activity by a building committee or
 8 other oversight group.

9 (B) Completion and filing of building plans with the
 10 appropriate local government authority.

11 (C) Cash reserves dedicated to the project of a sufficient
 12 amount to lead a reasonable individual to believe the actual
 13 construction can and will begin within five (5) years of the
 14 initial exemption received under this subsection.

15 (D) The breaking of ground and the beginning of actual
 16 construction.

17 (E) Any other factor that would lead a reasonable individual to
 18 believe that construction of the structure is an active plan and
 19 that the structure is capable of being:

20 (i) completed; and

21 (ii) transferred to a low income individual who does not
 22 receive an exemption under this section;

23 within eight (8) years considering the circumstances of the
 24 owner.

25 (j) An exemption under subsection (i) terminates when the property
 26 is conveyed by the nonprofit organization to another owner. When the
 27 property is conveyed to another owner, the nonprofit organization
 28 receiving the exemption must file a certified statement with the auditor
 29 of the county, notifying the auditor of the change not later than sixty
 30 (60) days after the date of the conveyance. The county auditor shall
 31 immediately forward a copy of the certified statement to the county
 32 assessor. A nonprofit organization that fails to file the statement
 33 required by this subsection is liable for the amount of property taxes
 34 due on the property conveyed if it were not for the exemption allowed
 35 under this chapter.

36 (k) If property is granted an exemption in any year under subsection
 37 (i) and the owner:

38 (1) ceases to be eligible for the exemption under subsection (i)(4);

39 (2) fails to transfer the tangible property within eight (8) years
 40 after the assessment date for which the exemption is initially
 41 granted; or

42 (3) transfers the tangible property to a person who:



- 1 (A) is not a low income individual; or
 2 (B) does not use the transferred property as a residence for at
 3 least one (1) year after the property is transferred;
 4 the person receiving the exemption shall notify the county recorder and
 5 the county auditor of the county in which the property is located not
 6 later than sixty (60) days after the event described in subdivision (1),
 7 (2), or (3) occurs. The county auditor shall immediately inform the
 8 county assessor of a notification received under this subsection.
- 9 (l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay,
 10 not later than the date that the next installment of property taxes is due,
 11 an amount equal to the sum of the following:
- 12 (1) The total property taxes that, if it were not for the exemption
 13 under subsection (i), would have been levied on the property in
 14 each year in which an exemption was allowed.
- 15 (2) Interest on the property taxes at the rate of ten percent (10%)
 16 per year.
- 17 (m) The liability imposed by subsection (l) is a lien upon the
 18 property receiving the exemption under subsection (i). An amount
 19 collected under subsection (l) shall be collected as an excess levy. If
 20 the amount is not paid, it shall be collected in the same manner that
 21 delinquent taxes on real property are collected.
- 22 ~~(n) Property referred to in this section shall be assessed to the extent~~
 23 ~~required under IC 6-1.1-11-9.~~
- 24 ~~(o)~~ (n) A for-profit provider of early childhood education services
 25 to children who are at least four (4) but less than six (6) years of age on
 26 the annual assessment date may receive the exemption provided by this
 27 section for property used for educational purposes only if all the
 28 requirements of section 46 of this chapter are satisfied. A for-profit
 29 provider of early childhood education services that provides the
 30 services only to children younger than four (4) years of age may not
 31 receive the exemption provided by this section for property used for
 32 educational purposes.
- 33 **(o) Property for affordable housing is exempt under this section**
 34 **if it satisfies the requirements of section 47 of this chapter.**
- 35 **(p) Property referred to in this section shall be assessed to the**
 36 **extent required under IC 6-1.1-11-9.**
- 37 SECTION 2. IC 6-1.1-10-47 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2016]: **Sec. 47. (a) As used in this section, the following**
 40 **definitions apply:**
 41 **(1) "Low income" means at or below eighty percent (80%) of**
 42 **an area's median income.**



- 1 (2) "Very low income" means at or below fifty percent (50%)
 2 of an area's median income.
- 3 (b) Tangible property owned, occupied, or used to provide
 4 affordable housing that is not otherwise exempt under section 16
 5 of this chapter is exempt under section 16 of this chapter if all the
 6 following requirements are satisfied:
- 7 (1) The owner establishes all of the following:
- 8 (A) That at least seventy-five percent (75%) of the
 9 residential units are occupied by residents that qualify as
 10 low income.
- 11 (B) Either at least:
- 12 (i) twenty percent (20%) of the units are occupied by
 13 residents who also meet the very low income limit for the
 14 area; or
- 15 (ii) forty percent (40%) of the units are occupied by
 16 residents whose income does not exceed sixty percent
 17 (60%) of the area's median income.
- 18 (C) Not more than twenty-five percent (25%) of the units
 19 are provided at market rates to individuals who have
 20 incomes exceeding the low income limit.
- 21 (2) The property is actually occupied by poor and distressed
 22 residents. In addition, when applying this actual occupancy
 23 requirement to a property requiring construction or
 24 rehabilitation, a reasonable transition period is allowed for an
 25 owner to place the property in service. Whether an owner's
 26 transition period is reasonable is to be determined by
 27 considering all relevant facts and circumstances. For a
 28 property that does not require substantial construction or
 29 substantial rehabilitation, a one (1) year transition period to
 30 satisfy the actual occupancy requirement is considered
 31 reasonable. If a project operates under a government
 32 program that allows a longer transition period, the longer
 33 period must be used to determine reasonableness.
- 34 (3) The property provides housing that is affordable to a
 35 charitable beneficiary. This requirement may be satisfied in
 36 the case of:
- 37 (A) rental housing, by the adoption of a rental policy that:
- 38 (i) complies with all government imposed rental
 39 restrictions; or
- 40 (ii) limits the tenant's part of the rent charged to ensure
 41 that the housing is affordable to low income and very low
 42 income residents; or



1 **(B) a home ownership program, by the adoption of a**
 2 **mortgage policy that:**

- 3 **(i) complies with all government imposed mortgage**
 4 **limitations; or**
 5 **(ii) makes the initial and continuing costs of purchasing**
 6 **a home affordable to low income and very low income**
 7 **residents.**

8 **(c) If a property consists of multiple buildings and each building**
 9 **does not separately meet the requirements of subsection (b), the**
 10 **property is exempt if the buildings share the same parcel or a**
 11 **combination of parcels under IC 6-1.1-4. However, this**
 12 **requirement does not apply to owners that provide individual**
 13 **homes or individual apartment units located at scattered sites in**
 14 **the community exclusively to low income families.**

15 **(d) The retention of a right by an owner to:**

- 16 **(1) evict a tenant for failing to pay rent or for other**
 17 **misconduct; or**
 18 **(2) foreclose on a homeowner for defaulting on a loan;**

19 **will not, by itself, disqualify an owner for the exemption.**

20 **(e) An owner of property seeking an exemption under section 16**
 21 **of this chapter based on this section must apply for the exemption**
 22 **as required by IC 6-1.1-11.**

23 SECTION 3. IC 6-1.1-11-3, AS AMENDED BY P.L.111-2014,
 24 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 3. (a) Subject to subsections (e), (f), and (g), an
 26 owner of tangible property who wishes to obtain an exemption from
 27 property taxation shall file a certified application in duplicate with the
 28 county assessor of the county in which the property that is the subject
 29 of the exemption is located. The application must be filed annually on
 30 or before:

- 31 (1) May 15 on forms prescribed by the department of local
 32 government finance, if the application is filed for an assessment
 33 date in a year that ends before January 1, 2016; and
 34 (2) April 1 of the year containing the assessment date, if the
 35 application is filed in a year that begins after December 31, 2015.

36 Except as provided in sections 1, 3.5, and 4 of this chapter, the
 37 application applies only for the taxes imposed for the year for which
 38 the application is filed.

39 (b) The authority for signing an exemption application may not be
 40 delegated by the owner of the property to any other person except by
 41 an executed power of attorney.

42 (c) An exemption application which is required under this chapter



- 1 shall contain the following information:
- 2 (1) A description of the property claimed to be exempt in
- 3 sufficient detail to afford identification.
- 4 (2) A statement showing the ownership, possession, and use of
- 5 the property.
- 6 (3) The grounds for claiming the exemption.
- 7 (4) The full name and address of the applicant.
- 8 (5) For the year that ends on the assessment date of the property,
- 9 identification of:
- 10 (A) each part of the property used or occupied; and
- 11 (B) each part of the property not used or occupied;
- 12 for one (1) or more exempt purposes under IC 6-1.1-10 during the
- 13 time the property is used or occupied.
- 14 **(6) For an exemption application for affordable housing**
- 15 **property covered by IC 6-1.1-10-47, the following:**
- 16 **(A) A copy of the owner's United States Internal Revenue**
- 17 **Service's determination letter, or if the owner is a**
- 18 **disregarded entity under the Internal Revenue Code, the**
- 19 **United States Internal Revenue Service's determination**
- 20 **letter of its one hundred percent (100%) ownership.**
- 21 **(2) A rent roll showing that the property is rented in**
- 22 **accordance with the requirements of IC 6-1.1-10-47.**
- 23 ~~(7)~~ (7) Any additional information which the department of local
- 24 government finance may require.
- 25 (d) A person who signs an exemption application shall attest in
- 26 writing and under penalties of perjury that, to the best of the person's
- 27 knowledge and belief, a predominant part of the property claimed to be
- 28 exempt is not being used or occupied in connection with a trade or
- 29 business that is not substantially related to the exercise or performance
- 30 of the organization's exempt purpose.
- 31 (e) An owner must file with an application for exemption of real
- 32 property under subsection (a) or section 5 of this chapter a copy of the
- 33 assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation
- 34 of the assessed value of the real property for the assessment date for
- 35 which the exemption is claimed. Upon receipt of the exemption
- 36 application, the county assessor shall examine that record and
- 37 determine if the real property for which the exemption is claimed is
- 38 properly assessed. If the county assessor determines that the real
- 39 property is not properly assessed, the county assessor shall:
- 40 (1) properly assess the real property or direct the township
- 41 assessor to properly assess the real property; and
- 42 (2) notify the county auditor of the proper assessment or direct the



1 township assessor to notify the county auditor of the proper
2 assessment.

3 (f) If the county assessor determines that the applicant has not filed
4 with an application for exemption a copy of the record referred to in
5 subsection (e), the county assessor shall notify the applicant in writing
6 of that requirement. The applicant then has thirty (30) days after the
7 date of the notice to comply with that requirement. The county property
8 tax assessment board of appeals shall deny an application described in
9 this subsection if the applicant does not comply with that requirement
10 within the time permitted under this subsection. After December 31,
11 2015, the notice required by this subsection must be sent not later than
12 April 25 in the year that it is required.

13 (g) This subsection applies whenever a law requires an exemption
14 to be claimed on or in an application accompanying a personal property
15 tax return. The claim or application may be filed on or with a personal
16 property tax return not more than thirty (30) days after the filing date
17 for the personal property tax return, regardless of whether an extension
18 of the filing date has been granted under IC 6-1.1-3-7.

