

SENATE BILL No. 435

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-24; IC 6-1.1-37-16.

Synopsis: Waiver of penalties and interest. Provides that the fiscal body of a county may adopt an ordinance to establish a property tax amnesty program and require a waiver of interest and penalties added before January 1, 2020, on delinquent taxes and special assessments on real property in the county if: (1) all of the delinquent taxes and special assessments on the real property were first due and payable before January 1, 2020; and (2) before July 1, 2021, the taxpayer has paid all of these delinquent taxes and special assessments and has also paid all of the taxes and special assessments that are first due and payable after December 31, 2019. Requires the waiver of interest and penalties in these circumstances, notwithstanding any payment arrangement entered into by the county treasurer and the taxpayer. Provides that the waiver of interest and penalties under a program shall not apply to interest and penalties added to delinquent property tax installments or special assessments on real property that was purchased or sold in any prior tax sale.

Effective: Upon passage.

Melton

January 15, 2020, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 435



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 6-1.1-24-2, AS AMENDED BY P.L.251-2015,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 2. (a) This section does not apply to vacant or
- 4 abandoned real property that is on the list prepared by the county
- 5 auditor under section 1.5 of this chapter.
- 6 (b) In addition to the delinquency list required under section 1 of
- 7 this chapter, each county auditor shall prepare a notice. The notice shall
- 8 contain the following:
- 9 (1) A list of tracts or real property eligible for sale under this
- 10 chapter.
- 11 (2) A statement that the tracts or real property included in the list
- 12 will be sold at public auction to the highest bidder, subject to the
- 13 right of redemption.
- 14 (3) A statement that the tracts or real property will not be sold for
- 15 an amount which is less than the sum of:
- 16 (A) the delinquent taxes and special assessments on each tract
- 17 or item of real property;



- 1 (B) the taxes and special assessments on each tract or item of
 2 real property that are due and payable in the year of the sale,
 3 whether or not they are delinquent;
 4 (C) all penalties due on the delinquencies;
 5 (D) an amount prescribed by the county auditor that equals the
 6 sum of:
 7 (i) the greater of twenty-five dollars (\$25) or postage and
 8 publication costs; and
 9 (ii) any other actual costs incurred by the county that are
 10 directly attributable to the tax sale; and
 11 (E) any unpaid costs due under subsection (c) from a prior tax
 12 sale.
- 13 (4) A statement that a person redeeming each tract or item of real
 14 property after the sale must pay:
 15 (A) one hundred ten percent (110%) of the amount of the
 16 minimum bid for which the tract or item of real property was
 17 offered at the time of sale if the tract or item of real property
 18 is redeemed not more than six (6) months after the date of
 19 sale;
 20 (B) one hundred fifteen percent (115%) of the amount of the
 21 minimum bid for which the tract or item of real property was
 22 offered at the time of sale if the tract or item of real property
 23 is redeemed more than six (6) months after the date of sale;
 24 (C) the amount by which the purchase price exceeds the
 25 minimum bid on the tract or item of real property plus five
 26 percent (5%) interest per annum, on the amount by which the
 27 purchase price exceeds the minimum bid; and
 28 (D) all taxes and special assessments on the tract or item of
 29 real property paid by the purchaser after the tax sale plus
 30 interest at the rate of five percent (5%) per annum, on the
 31 amount of taxes and special assessments paid by the purchaser
 32 on the redeemed property.
- 33 (5) A statement for informational purposes only, of the location
 34 of each tract or item of real property by key number, if any, and
 35 street address, if any, or a common description of the property
 36 other than a legal description. The township assessor, or the
 37 county assessor if there is no township assessor for the township,
 38 upon written request from the county auditor, shall provide the
 39 information to be in the notice required by this subsection. A
 40 misstatement in the key number or street address does not
 41 invalidate an otherwise valid sale.
- 42 (6) A statement that the county does not warrant the accuracy of



- 1 the street address or common description of the property.
2 (7) A statement indicating:
3 (A) the name of the owner of each tract or item of real
4 property with a single owner; or
5 (B) the name of at least one (1) of the owners of each tract or
6 item of real property with multiple owners.
7 (8) A statement of the procedure to be followed for obtaining or
8 objecting to a judgment and order of sale, that must include the
9 following:
10 (A) A statement:
11 (i) that the county auditor and county treasurer will apply on
12 or after a date designated in the notice for a court judgment
13 against the tracts or real property for an amount that is not
14 less than the amount set under subdivision (3), and for an
15 order to sell the tracts or real property at public auction to
16 the highest bidder, subject to the right of redemption; and
17 (ii) indicating the date when the period of redemption
18 specified in IC 6-1.1-25-4 will expire.
19 (B) A statement that any defense to the application for
20 judgment must be:
21 (i) filed with the court; and
22 (ii) served on the county auditor and the county treasurer;
23 before the date designated as the earliest date on which the
24 application for judgment may be filed.
25 (C) A statement that the county auditor and the county
26 treasurer are entitled to receive all pleadings, motions,
27 petitions, and other filings related to the defense to the
28 application for judgment.
29 (D) A statement that the court will set a date for a hearing at
30 least seven (7) days before the advertised date and that the
31 court will determine any defenses to the application for
32 judgment at the hearing.
33 (9) A statement that the sale will be conducted at a place
34 designated in the notice and that the sale will continue until all
35 tracts and real property have been offered for sale.
36 (10) A statement that the sale will take place at the times and
37 dates designated in the notice. Whenever the public auction is to
38 be conducted as an electronic sale, the notice must include a
39 statement indicating that the public auction will be conducted as
40 an electronic sale and a description of the procedures that must be
41 followed to participate in the electronic sale.
42 (11) A statement that a person redeeming each tract or item after



1 the sale must pay the costs described in IC 6-1.1-25-2(e).

2 (12) If a county auditor and county treasurer have entered into an
3 agreement under IC 6-1.1-25-4.7, a statement that the county
4 auditor will perform the duties of the notification and title search
5 under IC 6-1.1-25-4.5 and the notification and petition to the
6 court for the tax deed under IC 6-1.1-25-4.6.

7 (13) A statement that, if the tract or item of real property is sold
8 for an amount more than the minimum bid and the property is not
9 redeemed, the owner of record of the tract or item of real property
10 who is divested of ownership at the time the tax deed is issued
11 may have a right to the tax sale surplus.

12 (14) If a determination has been made under subsection (e), a
13 statement that tracts or items will be sold together.

14 **(15) With respect to a tract or an item of real property that is**
15 **subject to sale under this chapter after June 30, 2020, and**
16 **before July 1, 2021, a statement declaring whether an**
17 **ordinance adopted under IC 6-1.1-37-16 is in effect in the**
18 **county and, if applicable, an explanation of the circumstances**
19 **in which interest and penalties on the delinquent taxes and**
20 **special assessments will be waived.**

21 (c) If within sixty (60) days before the date of the tax sale the county
22 incurs costs set under subsection (b)(3)(D) and those costs are not paid,
23 the county auditor shall enter the amount of costs that remain unpaid
24 upon the tax duplicate of the property for which the costs were set. The
25 county treasurer shall mail notice of unpaid costs entered upon a tax
26 duplicate under this subsection to the owner of the property identified
27 in the tax duplicate.

28 (d) The amount of unpaid costs entered upon a tax duplicate under
29 subsection (c) must be paid no later than the date upon which the next
30 installment of real estate taxes for the property is due. Unpaid costs
31 entered upon a tax duplicate under subsection (c) are a lien against the
32 property described in the tax duplicate, and amounts remaining unpaid
33 on the date the next installment of real estate taxes is due may be
34 collected in the same manner that delinquent property taxes are
35 collected.

36 (e) The county auditor and county treasurer may establish the
37 condition that a tract or item will be sold and may be redeemed under
38 this chapter only if the tract or item is sold or redeemed together with
39 one (1) or more other tracts or items. Property may be sold together
40 only if the tract or item is owned by the same person.

41 SECTION 2. IC 6-1.1-24-4, AS AMENDED BY P.L.251-2015,
42 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 4. (a) This section does not apply to vacant or
 2 abandoned real property that is on the list prepared by the county
 3 auditor under section 1.5 of this chapter.

4 (b) Not less than twenty-one (21) days before the earliest date on
 5 which the application for judgment and order for sale of real property
 6 eligible for sale may be made, the county auditor shall send a notice of
 7 the sale by certified mail, return receipt requested, and by first class
 8 mail to:

- 9 (1) the owner of record of real property with a single owner; or
 10 (2) at least one (1) of the owners, as of the date of certification, of
 11 real property with multiple owners;

12 at the last address of the owner for the property as indicated in the
 13 transfer book records of the county auditor under IC 6-1.1-5-4 on the
 14 date that the tax sale list is certified. If both notices are returned, the
 15 county auditor shall take an additional reasonable step to notify the
 16 property owner, if the county auditor determines that an additional
 17 reasonable step to notify the property owner is practical. The county
 18 auditor shall prepare the notice in the form prescribed by the state
 19 board of accounts. The notice must set forth the key number, if any, of
 20 the real property and a street address, if any, or other common
 21 description of the property other than a legal description. The notice
 22 must include the statement set forth in section 2(b)(4) of this chapter.
 23 **With respect to a tract or an item of real property that is subject**
 24 **to sale under this chapter after June 30, 2020, and before July 1,**
 25 **2021, the notice must include a statement declaring whether an**
 26 **ordinance adopted under IC 6-1.1-37-16 is in effect in the county**
 27 **and, if applicable, an explanation of the circumstances in which**
 28 **interest and penalties on the delinquent taxes and special**
 29 **assessments will be waived.** The county auditor must present proof of
 30 this mailing to the court along with the application for judgment and
 31 order for sale. Failure by an owner to receive or accept the notice
 32 required by this section does not affect the validity of the judgment and
 33 order. The owner of real property shall notify the county auditor of the
 34 owner's correct address. The notice required under this section is
 35 considered sufficient if the notice is mailed to the address or addresses
 36 required by this section.

37 (c) On or before the day of sale, the county auditor shall list, on the
 38 tax sale record required by IC 6-1.1-25-8, all properties that will be
 39 offered for sale.

40 SECTION 3. IC 6-1.1-24-5, AS AMENDED BY P.L.251-2015,
 41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 5. (a) When a tract or an item of real property



1 is subject to sale under this chapter, it must be sold in compliance with
2 this section.

3 (b) The sale must be held at the times and place stated in the notice
4 of sale.

5 (c) A tract or an item of real property may not be sold under this
6 chapter to collect:

- 7 (1) delinquent personal property taxes; or
8 (2) taxes or special assessments which are chargeable to other real
9 property.

10 (d) A tract or an item of real property may not be sold under this
11 chapter if all the delinquent taxes, penalties, and special assessments
12 on the tract or an item of real property and the amount prescribed by
13 section 1.5 or 2(b)(3)(D) of this chapter, whichever applies, reflecting
14 the costs incurred by the county due to the sale, are paid before the time
15 of sale.

16 (e) The county treasurer shall sell the tract or item of real property,
17 subject to the right of redemption, to the highest bidder at public
18 auction. The right of redemption after a sale does not apply to an item
19 of real property that is on the vacant and abandoned property list
20 prepared by the county auditor under section 1.5 of this chapter. Except
21 as provided in section 1.5 of this chapter, a tract or an item of real
22 property may not be sold for an amount which is less than the sum of:

- 23 (1) the delinquent taxes and special assessments on each tract or
24 item of real property;
25 (2) the taxes and special assessments on each tract or item of real
26 property that are due and payable in the year of the sale,
27 regardless of whether the taxes and special assessments are
28 delinquent;
29 (3) all penalties which are due on the delinquencies;
30 (4) the amount prescribed by section 2(b)(3)(D) of this chapter
31 reflecting the costs incurred by the county due to the sale;
32 (5) any unpaid costs which are due under section 2(c) of this
33 chapter from a prior tax sale; and
34 (6) other reasonable expenses of collection, including title search
35 expenses, uniform commercial code expenses, and reasonable
36 attorney's fees incurred by the date of the sale.

37 **The amount of penalties due on the delinquencies under**
38 **subdivision (3) must be adjusted in accordance with IC 6-1.1-37-16,**
39 **if applicable.**

40 (f) For purposes of the sale, it is not necessary for the county
41 treasurer to first attempt to collect the real property taxes or special
42 assessments out of the personal property of the owner of the tract or



1 real property.

2 (g) The county auditor shall serve as the clerk of the sale.

3 (h) Real property certified to the county auditor under section 1.5 of
4 this chapter must be offered for sale in a different phase of the tax sale
5 or on a different day of the tax sale than the phase or day during which
6 other real property is offered for sale.

7 (i) The public auction required under subsection (e) may be
8 conducted by electronic means, at the option of the county treasurer.
9 The electronic sale must comply with the other statutory requirements
10 of this section. If an electronic sale is conducted under this subsection,
11 the county treasurer shall provide access to the electronic sale by
12 providing computer terminals open to the public at a designated
13 location. A county treasurer who elects to conduct an electronic sale
14 may receive electronic payments and establish rules necessary to
15 secure the payments in a timely fashion. The county treasurer may not
16 add an additional cost of sale charge to a parcel for the purpose of
17 conducting the electronic sale.

18 SECTION 4. IC 6-1.1-37-16 IS ADDED TO THE INDIANA CODE
19 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
20 **UPON PASSAGE]: Sec. 16. (a) The fiscal body of a county may,**
21 **before July 1, 2020, adopt an ordinance to have this section apply**
22 **throughout the county. If the fiscal body of a county adopts an**
23 **ordinance under this subsection, the ordinance applies after June**
24 **30, 2020, and before July 1, 2021. The fiscal body shall deliver a**
25 **copy of the ordinance to the county treasurer and the county**
26 **auditor.**

27 (b) Subject to subsection (d), the county treasurer of a county to
28 which this section applies shall waive all interest and penalties
29 added before January 1, 2020, to a delinquent property tax
30 installment or special assessment on a tract or an item of real
31 property if:

32 (1) all of the delinquent taxes and special assessments on the
33 tract or item of real property were first due and payable
34 before January 1, 2020; and

35 (2) before July 1, 2021, the taxpayer has paid:

36 (A) all of the delinquent taxes and special assessments
37 described in subdivision (1); and

38 (B) all of the taxes and special assessments that are first
39 due and payable on the tract or item of real property after
40 December 31, 2019, and before July 1, 2021 (and any
41 interest and penalties on these taxes and special
42 assessments).



- 1 **(c) Subject to subsection (d), the county treasurer of a county to**
2 **which this section applies shall waive interest and penalties as**
3 **provided in subsection (b) if the conditions of subsection (b) are**
4 **satisfied, notwithstanding any payment arrangement entered into**
5 **by the county treasurer and the taxpayer under IC 6-1.1-24-1.2 or**
6 **under any other law.**
- 7 **(d) This section shall not apply to interest and penalties added**
8 **to delinquent property tax installments or special assessments on**
9 **a tract or item of real property that was purchased or sold in any**
10 **prior tax sale.**
- 11 **SECTION 5. An emergency is declared for this act.**

