



February 9, 2023

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## HOUSE BILL No. 1106

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DIGEST OF HB 1106 (Updated February 8, 2023 4:44 pm - DI 125)

**Citations Affected:** IC 5-28; IC 6-3.1; noncode.

**Synopsis:** Mine reclamation tax credit. Provides a tax credit for a taxpayer that enters into an agreement with the Indiana economic development corporation (corporation) for a qualified investment for development of property located on reclaimed coal mining land. Provides that the amount of a credit that a taxpayer receives may not exceed the lesser of: (1) a taxpayer's qualified investment multiplied by 25%; or (2) \$1,500,000. Provides for the assignment of the credit by a taxpayer to certain lessees. Provides that a taxpayer is not entitled to the credit if the corporation determines that the taxpayer has substantially reduced or ceased its operations in Indiana in order to relocate them within the mine reclamation site. Provides that the tax credit expires December 31, 2027.

**Effective:** July 1, 2023.

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**Lindauer, Heaton, Morrison,  
Borders**

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January 10, 2023, read first time and referred to Committee on Ways and Means.  
February 9, 2023, amended, reported — Do Pass.

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HB 1106—LS 6413/DI 116





February 9, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1106

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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 5-28-2-1.5, AS ADDED BY P.L.135-2022,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 1.5. "Applicable tax credit" means a tax credit  
4 available under any of the following:

- 5 (1) IC 6-3.1-13.
- 6 (2) IC 6-3.1-19.
- 7 (3) IC 6-3.1-26.
- 8 (4) IC 6-3.1-30.
- 9 (5) IC 6-3.1-34.
- 10 (6) IC 6-3.1-36.
- 11 **(7) IC 6-3.1-37.2.**

12 SECTION 2. IC 6-3.1-37.2 IS ADDED TO THE INDIANA CODE  
13 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2023]:

15 **Chapter 37.2. Mine Reclamation Tax Credit**

16 **Sec. 1. As used in this chapter, "corporation" refers to the**  
17 **Indiana economic development corporation established by**

HB 1106—LS 6413/DI 116



1 IC 5-28-3 unless the context clearly denotes otherwise.

2 Sec. 2. As used in this chapter, "mine reclamation site" means  
3 land that has been mined using surface mining methods or  
4 underground mining methods, specifically and primarily for the  
5 removal of coal, and land contiguous to such previously mined  
6 land.

7 Sec. 3. As used in this chapter, "qualified investment" means  
8 the amount of the taxpayer's expenditures for development of  
9 property located within a mine reclamation site.

10 Sec. 4. As used in this chapter, "state tax liability" means the  
11 taxpayer's total tax liability that is incurred under:

12 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

13 (2) IC 27-1-18-2 (the insurance premiums tax); and

14 (3) IC 6-5.5 (the financial institutions tax);

15 as computed after the application of the credits that, under  
16 IC 6-3.1-1-2, are to be applied before the credit provided by this  
17 chapter.

18 Sec. 5. As used in this chapter, "taxpayer" means any person,  
19 corporation, limited liability company, partnership, or other  
20 entity that has any state tax liability and that is the owner or  
21 developer of a mine reclamation site. The term includes a lessee  
22 that is assigned some part of a credit under section 6(c) of this  
23 chapter.

24 Sec. 6. (a) Subject to entering into an agreement with the  
25 corporation under section 8 of this chapter and subject to  
26 section 11 of this chapter, a taxpayer is entitled to a credit  
27 against the taxpayer's state tax liability for a taxable year if the  
28 taxpayer makes a qualified investment in that year.

29 (b) Subject to section 15 of this chapter, the amount of the  
30 credit to which a taxpayer is entitled may not exceed the lesser  
31 of:

32 (1) the qualified investment made by the taxpayer during  
33 the taxable year multiplied by twenty-five percent (25%);

34 or

35 (2) one million five hundred thousand dollars (\$1,500,000).

36 (c) A taxpayer may assign any part of the credit to which the  
37 taxpayer is entitled under this chapter to a lessee of the mine  
38 reclamation site. A credit that is assigned under this subsection  
39 remains subject to this chapter.

40 (d) An assignment under subsection (c) must be in writing  
41 and both the taxpayer and the lessee must report the assignment  
42 on their state tax returns for the year in which the assignment is



1 made in the manner prescribed by the department of state  
2 revenue. The taxpayer may not receive value in connection with  
3 the assignment under subsection (c) that exceeds the value of  
4 the part of the credit assigned.

5 **Sec. 7. (a)** If the amount determined under section 6(b) of this  
6 chapter for a taxable year exceeds the taxpayer's state tax liability  
7 for that taxable year, the taxpayer may carry the excess over to the  
8 immediately following taxable years. The amount of the credit  
9 carryover from a taxable year is reduced to the extent that the  
10 carryover is used by the taxpayer to obtain a credit under this  
11 chapter for any subsequent taxable year.

12 **(b)** A taxpayer is not entitled to a carryback or refund of any  
13 unused credit.

14 **Sec. 8. (a)** A taxpayer that proposes to make qualified  
15 investments on a mine reclamation site as provided under this  
16 chapter may apply to the corporation to enter into an agreement  
17 for a tax credit under this chapter.

18 **(b)** The corporation shall prescribe the form of the application.

19 **Sec. 9.** The corporation shall consider the following factors in  
20 evaluating applications filed under this chapter:

21 **(1)** The impact in the surrounding community caused by the  
22 lack of development at the mine reclamation site.

23 **(2)** Evidence of support for the designation by residents,  
24 businesses, and private organizations in the surrounding  
25 community.

26 **(3)** Evidence of a commitment by private or governmental  
27 entities to assist in the financing of improvements or  
28 redevelopment activities benefiting the mine reclamation site.

29 **(4)** Whether the mine reclamation site is within an economic  
30 revitalization area designated under IC 6-1.1-12.1.

31 **Sec. 10.** If the corporation approves an application under this  
32 chapter, the corporation shall require the applicant to enter  
33 into an agreement with the corporation as a condition of  
34 receiving a tax credit under this chapter.

35 **Sec. 11.** A taxpayer is not entitled to claim the credit provided  
36 by this chapter if the corporation determines that the taxpayer  
37 has substantially reduced or ceased its operations in Indiana in  
38 order to relocate them within the mine reclamation site. A  
39 determination that a taxpayer is not entitled to the credit  
40 provided by this chapter as a result of a substantial reduction  
41 or cessation of operations applies to credits that would  
42 otherwise arise in the taxable year in which the substantial



1 reduction or cessation occurs and in all subsequent years.

2 **Sec. 12. (a) A credit to which a taxpayer is entitled under this**  
 3 **chapter shall be applied against taxes owed by the taxpayer in the**  
 4 **following order:**

5 (1) **Against the taxpayer's adjusted gross income tax liability**  
 6 **(IC 6-3-1 through IC 6-3-7) for the taxable year.**

7 (2) **Against the taxpayer's insurance premiums tax liability**  
 8 **(IC 27-1-18-2) for the taxable year.**

9 (3) **Against the taxpayer's financial institutions tax (IC 6-5.5)**  
 10 **for the taxable year.**

11 (b) **Whenever the tax paid by the taxpayer under any of the tax**  
 12 **provisions listed in subsection (a) is a credit against the liability or**  
 13 **a deduction in determining the tax base under another Indiana tax**  
 14 **provision, the credit or deduction shall be computed without**  
 15 **regard to the credit to which a taxpayer is entitled under this**  
 16 **chapter.**

17 **Sec. 13. To receive the credit provided by this chapter, a**  
 18 **taxpayer must claim the credit on the taxpayer's annual state tax**  
 19 **return or returns in the manner prescribed by the department of**  
 20 **state revenue. The taxpayer shall submit to the department of state**  
 21 **revenue the certification of the corporation stating the percentage**  
 22 **of credit allowable under this chapter and all other information**  
 23 **that the department determines is necessary for the calculation of**  
 24 **the credit provided by this chapter and for the determination of**  
 25 **whether an expenditure is for a qualified investment.**

26 **Sec. 14. (a) If a pass through entity does not have state income**  
 27 **tax liability against which the tax credit provided by this chapter**  
 28 **may be applied, a shareholder, partner, or member of the pass**  
 29 **through entity is entitled to a tax credit equal to:**

30 (1) **the tax credit determined for the pass through entity for**  
 31 **the taxable year; multiplied by**

32 (2) **the percentage of the pass through entity's distributive**  
 33 **income to which the shareholder, partner, or member is**  
 34 **entitled.**

35 (b) **The credit provided under subsection (a) is in addition to a**  
 36 **tax credit to which a shareholder, partner, or member of a pass**  
 37 **through entity is otherwise entitled under this chapter.**

38 (c) **Notwithstanding subsections (a) and (b), a pass through**  
 39 **entity (other than an entity described in IC 6-3-1-35(1)) and its**  
 40 **partners, beneficiaries, or members may allocate the credit among**  
 41 **its partners, beneficiaries, or members of the pass through entity**  
 42 **as provided by written agreement without regard to their sharing**



1 of other tax or economic attributes. Such agreements shall be filed  
2 with the corporation not later than fifteen (15) days after  
3 execution. The pass through entity shall also provide a copy of such  
4 agreements, a list of partners, beneficiaries, or members of the pass  
5 through entity, and their respective shares of the credit resulting  
6 from such agreements in the manner prescribed by the department  
7 of state revenue.

8 **Sec. 15. The aggregate amount of tax credits allowed under this**  
9 **chapter may not exceed three million dollars (\$3,000,000) during**  
10 **the period beginning January 1, 2024, and ending December 31,**  
11 **2027.**

12 **Sec. 16. A tax credit awarded under this chapter is subject to the**  
13 **limitations set forth in IC 5-28-6-9.**

14 **Sec. 17. This chapter expires December 31, 2027.**

15 SECTION 3. [EFFECTIVE JULY 1, 2023] (a) IC 6-3.1-37.2, as  
16 added by this act, applies to taxable years beginning after  
17 December 31, 2023.

18 (b) This SECTION expires July 1, 2025.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1106, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-28-2-1.5, AS ADDED BY P.L.135-2022, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.5. "Applicable tax credit" means a tax credit available under any of the following:

- (1) IC 6-3.1-13.
- (2) IC 6-3.1-19.
- (3) IC 6-3.1-26.
- (4) IC 6-3.1-30.
- (5) IC 6-3.1-34.
- (6) IC 6-3.1-36.
- (7) IC 6-3.1-37.2."**

Page 2, line 18, delete "The" and insert "**Subject to section 15 of this chapter, the**".

Page 2, line 19, delete "is" and insert "**may not exceed the lesser of:**

**(1)"**.

Page 2, line 20, after "(25%)" delete "." and insert "**; or**

**(2) one million five hundred thousand dollars (\$1,500,000).".**

Page 4, after line 34, begin a new paragraph and insert:

**"Sec. 15. The aggregate amount of tax credits allowed under this chapter may not exceed three million dollars (\$3,000,000) during the period beginning January 1, 2024, and ending December 31, 2027.**

**Sec. 16. A tax credit awarded under this chapter is subject to the limitations set forth in IC 5-28-6-9.**

**Sec. 17. This chapter expires December 31, 2027.**

SECTION 3. [EFFECTIVE JULY 1, 2023] **(a) IC 6-3.1-37.2, as added by this act, applies to taxable years beginning after December 31, 2023.**

**(b) This SECTION expires July 1, 2025."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.





(Reference is to HB 1106 as introduced.)

THOMPSON

Committee Vote: yeas 21, nays 0.

