HOUSE BILL No. 1261

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-10; IC 6-1.1-11.

Synopsis: Property tax exemptions. Provides that the property tax exemption for religious purposes applies to a building that is leased (including land and leased personal property) if the person using the building for religious purposes would otherwise be liable for property taxes. Specifies conditions that must be satisfied to obtain the exemption. Specifies that if an exempt use has not changed, the person receiving the exemption can satisfy the filing requirement to maintain the exemption by filing a statement in each even-numbered year. (Current law provides that an annual filing of a complete application is required unless it is a nonprofit corporation.) Makes no change to the exclusion from the requirement to make any subsequent filing for property used for educational, literary, scientific, religious, or charitable purposes or owned by a fraternity or sorority.

Effective: Upon passage.

Speedy

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

Introduced

Second Regular Session of the 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.

HOUSE BILL No. 1261

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

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

SECTION 1. IC 6-1.1-10-16, AS AMENDED BY P.L.151-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes. **If a building is not owned by a person but is leased by the person and occupied and used for religious purposes, the building is exempt from property taxation under this subsection if the conditions set forth in section 47 of this chapter are satisfied.**

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

(1) a building that is exempt under subsection (a) or (b) is situated on it;

(2) a parking lot or structure that serves a building referred to in

subdivision (1) is situated on it; or
(3) the tract:
(A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics;
(B) does not exceed five hundred (500) acres; and
(C) is not used by the nonprofit entity to make a profit.

(d) A tract of land is exempt from property taxation if:
(1) it is purchased for the purpose of erecting a building that is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b); and
(2) not more than four (4) years after the property is purchased, and for each year after the four (4) year period, the owner demonstrates substantial progress and active pursuit towards the erection of the intended building and use of the tract for the exempt purpose. To establish substantial progress and active pursuit under this subdivision, the owner must prove the existence of factors such as the following:
(A) Organization of and activity by a building committee or other oversight group.
(B) Completion and filing of building plans with the appropriate local government authority.
(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within four (4) years.
(D) The breaking of ground and the beginning of actual construction.
(E) Any other factor that would lead a reasonable individual to believe that construction of the building is an active plan and that the building is capable of being completed within eight (8) years considering the circumstances of the owner.

If the owner of the property sells, leases, or otherwise transfers a tract of land that is exempt under this subsection, the owner is liable for the property taxes that were not imposed upon the tract of land during the period beginning January 1 of the fourth year following the purchase of the property and ending on December 31 of the year of the sale, lease, or transfer. The county auditor of the county in which the tract of land is located may establish an installment plan for the repayment of taxes due under this subsection. The plan established by the county auditor may allow the repayment of the taxes over a period of years equal to the number of years for which property taxes must be repaid under this subsection.

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property that is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption under this section.

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

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

(1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or

(2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

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

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

(1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:

(A) in a charitable manner;

(B) by a nonprofit organization; and

(C) to low income individuals who will:

(i) use the land as a family residence; and

(ii) not have an exemption for the land under this section;

(2) the tract does not exceed three (3) acres;

(3) the tract of land or the tract of land plus all or part of a

structure on the land is not used for profit while exempt under this section; and

(4) not more than four (4) years after the property is acquired for the purpose described in subdivision (1), and for each year after the four (4) year period, the owner demonstrates substantial progress and active pursuit towards the erection, renovation, or improvement of the intended structure. To establish substantial progress and active pursuit under this subdivision, the owner must prove the existence of factors such as the following:

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

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

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

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

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

(i) completed; and

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

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

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

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

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

(2) fails to transfer the tangible property within eight (8) years

after the assessment date for which the exemption is initially granted; or

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

(A) is not a low income individual; or

(B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and the county auditor of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs. The county auditor shall immediately inform the county assessor of a notification received under this subsection.

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

(1) The total property taxes that, if it were not for the exemption under subsection (i), would have been levied on the property in each year in which an exemption was allowed.

(2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

(n) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

(o) A for-profit provider of early childhood education services to children who are at least four (4) but less than six (6) years of age on the annual assessment date may receive the exemption provided by this section for property used for educational purposes only if all the requirements of section 46 of this chapter are satisfied. A for-profit provider of early childhood education services that provides the services only to children younger than four (4) years of age may not receive the exemption provided by this section for property used for educational purposes.

SECTION 2. IC 6-1.1-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) The following tangible property is exempt from property taxation if it is owned **(or leased, if the conditions set forth in section 47 of this chapter are satisfied)** by, or held in trust for the use of, a church or religious society:

(1) A building that is used for religious worship.

(2) The pews and furniture contained within a building that is used for religious worship.

(3) The tract of land upon which a building that is used for religious worship is situated.

(b) The following tangible property is exempt from property taxation if it is owned **(or leased, if the conditions set forth in section 47 of this chapter are satisfied)** by, or held in trust for the use of, a church or religious society:

(1) A building that is used as a parsonage.

(2) The tract of land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated.

(c) To obtain an exemption for parsonages, a church or religious society must provide the county assessor with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

(1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor.

(d) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 3. IC 6-1.1-10-47 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 47. (a) A building leased to a person that does not own the building but otherwise satisfies the occupancy and use requirements of section 16 of this chapter is exempt from property taxes if the lease, regardless of the commencement date, requires the person to reimburse the owner for property taxes. If a person leases less than all of a building, the exemption is a partial exemption that is equal to the part of the gross assessed value of the building that is leased by the person.**

(b) The person leasing, occupying, and using the building may apply for the exemption. To establish that a lease requires the person to reimburse the owner for property taxes, the person leasing the building must provide the county assessor with an affidavit of both the person leasing, occupying, and using the building and the owner of the building that includes an affirmation of the following:

(1) The location and parcel number for the leased building, including the part of the building that is leased if the person

leases less than all of the building.
(2) The parties to the lease.
(3) The commencement and termination date for the lease.
(4) That either:
(A) a reimbursement of property taxes to the owner is required under the lease (a copy of the reimbursement provision must be attached to the affidavit); or
(B) the lease rental amount under the lease includes an amount for property taxes and the owner has agreed to give a lease rental credit for the amount of property taxes to the person as long as the exemption is in effect.

SECTION 4. IC 6-1.1-11-3, AS AMENDED BY P.L.111-2014, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsections (e), (f), and (g), an owner of tangible property who wishes to obtain an exemption from property taxation **for the first time for that tangible property** shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed ~~annually~~ on or before
~~(1) May 15 on forms prescribed by the department of local government finance, if the application is filed for an assessment date in a year that ends before January 1, 2016; and~~
~~(2)~~ April 1 of the year containing the assessment date. ~~if the application is filed in a year that begins after December 31, 2015.~~
Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

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

(c) An exemption application which is required under this chapter shall contain the following information:
(1) A description of the property claimed to be exempt in sufficient detail to afford identification.
(2) A statement showing the ownership, possession, and use of the property.
(3) The grounds for claiming the exemption.
(4) The full name and address of the applicant.
(5) For the year that ends on the assessment date of the property, identification of:
(A) each part of the property used or occupied; and
(B) each part of the property not used or occupied;

for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.

(6) Any additional information which the department of local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

(e) An owner must file with an application for exemption of real property under subsection (a) or section 5 of this chapter a copy of the assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall:

(1) properly assess the real property or direct the township assessor to properly assess the real property; and

(2) notify the county auditor of the proper assessment or direct the township assessor to notify the county auditor of the proper assessment.

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

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

SECTION 5. IC 6-1.1-11-3.5, AS AMENDED BY P.L.111-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 3.5. (a) ~~A not-for-profit corporation that seeks an exemption provided by IC 6-1.1-10 for 2000 or for a year that follows 2000 by a multiple of two (2) years must file an application for the exemption in that year. However,~~ If a ~~not-for-profit corporation~~ **person** seeks an exemption provided by IC 6-1.1-10 for a year ~~not specified in this subsection~~ and the ~~corporation~~ **person** did not receive the exemption for the preceding year, the ~~corporation~~ **person** must file an application for the exemption in the year for which the exemption is sought ~~The not-for-profit corporation must file each exemption application~~ in the manner ~~(other than the requirement for filing annually)~~ prescribed in section 3 of this chapter.

(b) A ~~not-for-profit corporation~~ **person** that receives an exemption provided under IC 6-1.1-10 for a particular year that remains eligible for the exemption for the following year is only required to file a statement to apply for the exemption in ~~the years specified in subsection (a),~~ **each even-numbered year,** if the use of the ~~not-for-profit corporation's~~ **person's** property remains unchanged.

(c) A ~~not-for-profit corporation~~ **person** that receives an exemption provided under IC 6-1.1-10 for a particular year which becomes ineligible for the exemption for the following year shall notify the assessor of the county in which the tangible property for which it claims the exemption is located of its ineligibility on or before

~~(1) May 15 of the year for which it becomes ineligible, if the property becomes ineligible in a year that ends before January 1, 2016; and~~

~~(2)~~ April 1 of the year for which it becomes ineligible. ~~if the property becomes ineligible in a year that begins after December 31, 2015.~~

If a ~~not-for-profit corporation~~ **person** that is receiving an exemption provided under IC 6-1.1-10 changes the use of its tangible property so that part or all of that property no longer qualifies for the exemption, the ~~not-for-profit corporation~~ **person** shall notify the assessor of the county in which the tangible property for which it claims the exemption is located of its ineligibility on or before the date specified. ~~in subdivision (1) or (2), as appropriate.~~ The county assessor shall immediately notify the county auditor of the ~~not-for-profit corporation's~~ **person's** ineligibility or disqualification for the exemption. A ~~not-for-profit corporation~~ **person** that fails to provide the notification required by this subsection is subject to the penalties set forth in IC 6-1.1-37-9.

(d) For each ~~year that is not a year specified in subsection (a),~~ **odd-numbered year,** the auditor of each county shall apply an exemption provided under IC 6-1.1-10 to the tangible property owned by a ~~not-for-profit~~ ~~corporation~~ **person** that received the exemption in the preceding year unless the county property tax assessment board of appeals determines that the ~~not-for-profit~~ ~~corporation~~ **person** is no longer eligible for the exemption.

(e) The department of local government finance may at any time review an exemption provided under this section and determine whether ~~or~~ ~~not~~ the ~~not-for-profit~~ ~~corporation~~ **person** is eligible for the exemption.

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) IC 6-1.1-10-16, IC 6-1.1-10-21, IC 6-1.1-11-3, and IC 6-1.1-11-3.5, all as amended by this act, and IC 6-1.1-10-47, as added by this act, apply to assessment dates after December 31, 2015.**

(b) This SECTION expires June 30, 2017.

SECTION 7. **An emergency is declared for this act.**