



February 10, 2021

SENATE BILL No. 214

DIGEST OF SB 214 (Updated February 9, 2021 11:23 am - DI 120)

Citations Affected: IC 5-20; IC 6-1.1; IC 36-1; IC 36-2; IC 36-3; IC 36-7.

Synopsis: Low income housing. Reinstates provisions that were repealed in the 2016 session in Senate Bill 309 regarding eligibility for the property tax exemption for improvements on real property that are constructed, rehabilitated, or acquired for the purpose of providing low income housing. Provides that payments in lieu of taxes (PILOTS) may be required from a property owner claiming such an exemption.

Effective: January 1, 2022.

Holdman

January 11, 2021, read first time and referred to Committee on Tax and Fiscal Policy.
February 9, 2021, amended, reported favorably — Do Pass.

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February 10, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 214

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 5-20-5-15.5, AS AMENDED BY P.L.17-2020,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2022]: Sec. 15.5. (a) The governing body of an eligible
4 entity that receives a grant under this chapter shall, by resolution,
5 establish an affordable housing fund to be administered, subject to the
6 terms of the resolution, by a department, a division, or an agency
7 designated by the governing body.
8 (b) The affordable housing fund consists of:
9 (1) payments in lieu of taxes deposited in the fund under
10 ~~IC 36-1-8-14.2 (before its expiration); IC 36-1-8-14.3;~~
11 (2) gifts and grants to the fund;
12 (3) investment income earned on the fund's assets;
13 (4) money deposited in the fund under IC 36-2-7-10; and
14 (5) other funds from sources approved by the commission.
15 (c) The governing body shall, by resolution, establish uses for the
16 affordable housing fund. However, the uses must be limited to:
17 (1) providing financial assistance to those individuals and

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1 families whose income is at or below eighty percent (80%) of the
 2 county's median income for individuals and families, respectively,
 3 to enable those individuals and families to purchase or lease
 4 residential units within the county;

5 (2) paying expenses of administering the fund;

6 (3) making grants, loans, and loan guarantees for the
 7 development, rehabilitation, or financing of affordable housing
 8 for individuals and families whose income is at or below eighty
 9 percent (80%) of the county's median income for individuals and
 10 families, respectively, including the elderly, persons with
 11 disabilities, and homeless individuals and families; and

12 (4) providing technical assistance to nonprofit developers of
 13 affordable housing.

14 (d) The county treasurer shall invest the money in the fund not
 15 currently needed to meet the obligations of the fund in the same
 16 manner as other public funds may be invested.

17 (e) The governing body of an eligible entity shall notify the
 18 authority of the creation of an affordable housing fund.

19 SECTION 2. IC 6-1.1-10-16.7, AS AMENDED BY P.L.181-2016,
 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JANUARY 1, 2022]: Sec. 16.7. (a) Except as otherwise provided in
 22 this section, **for assessment dates after December 31, 2021**, all or
 23 part of real property is exempt from property taxation if:

24 (1) the improvements on the real property were constructed,
 25 rehabilitated, or acquired for the purpose of providing housing to
 26 income eligible persons under the federal low income housing tax
 27 credit program under 26 U.S.C. 42;

28 (2) the real property is subject to an extended use agreement
 29 under 26 U.S.C. 42 as administered by the Indiana housing and
 30 community development authority; and

31 (3) the owner of the property has entered into an agreement to
 32 make payments in lieu of taxes under ~~IC 36-1-8-14.2~~ (before its
 33 expiration); ~~IC 36-2-6-22~~ (before its expiration); or ~~IC 36-3-2-11~~
 34 (before its expiration). **IC 36-1-8-14.3, IC 36-2-6-23, or**
 35 **IC 36-3-2-12.**

36 (b) For assessment dates after December 31, 2017, all or part of real
 37 property is exempt from property taxation if:

38 (1) the conditions specified in subsection (a)(1) through (a)(3) are
 39 met; and

40 (2) before January 1, 2018:

41 (A) the real property was exempt from property taxation under
 42 this section for one (1) or more assessment dates;



- 1 (B) a person filed an application seeking bond financing with
 2 a political subdivision with respect to the real property;
 3 (C) a person filed an application with the Indiana housing and
 4 community development authority seeking tax credits under 26
 5 U.S.C. 42 with respect to the real property; or
 6 (D) the real property was the subject of a resolution for
 7 affordable housing adopted by a political subdivision.
- 8 (e) **(b)** This section may not be construed in such a way as to:
 9 (1) alter the terms of an agreement with the holders of any
 10 outstanding notes, bonds, or other obligations of an issuing body;
 11 (2) authorize the issuing body to alter the terms of an agreement
 12 described in subdivision (1); or
 13 (3) impair, or authorize the issuing body to impair, the rights and
 14 remedies of any creditor of the issuing body.
- 15 SECTION 3. IC 36-1-8-14.3 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 17 JANUARY 1, 2022]: **Sec. 14.3. (a) PILOTS may be imposed under
 18 this section for an assessment date occurring after December 31,
 19 2021.**
- 20 **(b) As used in this section, the following terms have the
 21 meanings set forth in IC 6-1.1-1:**
 22 **(1) Assessed value.**
 23 **(2) Exemption.**
 24 **(3) Owner.**
 25 **(4) Person.**
 26 **(5) Property taxation.**
 27 **(6) Real property.**
 28 **(7) Township assessor.**
- 29 **(c) As used in this section, "PILOTS" means payments in lieu of
 30 taxes.**
- 31 **(d) As used in this section, "property owner" means the owner
 32 of real property described in IC 6-1.1-10-16.7.**
- 33 **(e) Subject to the approval of a property owner, the governing
 34 body of a political subdivision may adopt an ordinance to require
 35 the property owner to pay PILOTS at times set forth in the
 36 ordinance with respect to real property that is subject to an
 37 exemption under IC 6-1.1-10-16.7. The ordinance remains in full
 38 force and effect until repealed or modified by the governing body,
 39 subject to the approval of the property owner.**
- 40 **(f) The PILOTS must be calculated so that the PILOTS are in
 41 an amount equal to the amount of property taxes that would have
 42 been levied by the governing body for the political subdivision**



1 upon the real property described in subsection (e) if the property
2 were not subject to an exemption from property taxation.

3 (g) PILOTS shall be imposed as are property taxes and shall be
4 based on the assessed value of the real property described in
5 subsection (e). Except as provided in subsection (k), the township
6 assessor, or the county assessor if there is no township assessor for
7 the township, shall assess the real property described in subsection
8 (e) as though the property were not subject to an exemption.

9 (h) PILOTS collected under this section shall be deposited in the
10 unit's affordable housing fund established under IC 5-20-5-15.5
11 and used for any purpose for which the affordable housing fund
12 may be used.

13 (i) PILOTS shall be due as set forth in the ordinance and bear
14 interest, if unpaid, as in the case of other taxes on property.
15 PILOTS shall be treated in the same manner as taxes for purposes
16 of all procedural and substantive provisions of law.

17 (j) This section does not apply to a county that contains a
18 consolidated city or to a political subdivision of the county.

19 (k) If the duties of the township assessor have been transferred
20 to the county assessor as described in IC 6-1.1-1-24, a reference to
21 the township assessor in this section is considered to be a reference
22 to the county assessor.

23 SECTION 4. IC 36-2-6-23 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
25 JANUARY 1, 2022]: Sec. 23. (a) PILOTS may be imposed under
26 this section for an assessment date occurring after December 31,
27 2021.

28 (b) As used in this section, the following terms have the
29 meanings set forth in IC 6-1.1-1:

- 30 (1) Assessed value.
- 31 (2) Exemption.
- 32 (3) Owner.
- 33 (4) Person.
- 34 (5) Property taxation.
- 35 (6) Real property.
- 36 (7) Township assessor.

37 (c) As used in this section, "PILOTS" means payments in lieu of
38 taxes.

39 (d) As used in this section, "property owner" means the owner
40 of real property described in IC 6-1.1-10-16.7 that is not located in
41 a county containing a consolidated city.

42 (e) Subject to the approval of a property owner, the fiscal body



1 of a county may adopt an ordinance to require the property owner
 2 to pay PILOTS at times set forth in the ordinance with respect to
 3 real property that is subject to an exemption under
 4 IC 6-1.1-10-16.7. The ordinance remains in full force and effect
 5 until repealed or modified by the legislative body, subject to the
 6 approval of the property owner.

7 (f) The PILOTS must be calculated so that the PILOTS are in
 8 an amount equal to the amount of property taxes that would have
 9 been levied upon the real property described in subsection (e) if the
 10 property were not subject to an exemption from property taxation.

11 (g) PILOTS shall be imposed in the same manner as property
 12 taxes and shall be based on the assessed value of the real property
 13 described in subsection (e). Except as provided in subsection (j), the
 14 township assessor, or the county assessor if there is no township
 15 assessor for the township, shall assess the real property described
 16 in subsection (e) as though the property were not subject to an
 17 exemption.

18 (h) PILOTS collected under this section shall be distributed in
 19 the same manner as if they were property taxes being distributed
 20 to taxing units in the county.

21 (i) PILOTS shall be due as set forth in the ordinance and bear
 22 interest, if unpaid, as in the case of other taxes on property.
 23 PILOTS shall be treated in the same manner as taxes for purposes
 24 of all procedural and substantive provisions of law.

25 (j) If the duties of the township assessor have been transferred
 26 to the county assessor as described in IC 6-1.1-1-24, a reference to
 27 the township assessor in this section is considered to be a reference
 28 to the county assessor.

29 SECTION 5. IC 36-3-2-12 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 31 JANUARY 1, 2022]: Sec. 12. (a) PILOTS may be imposed under
 32 this section for an assessment date occurring after December 31,
 33 2021.

34 (b) As used in this section, the following terms have the
 35 meanings set forth in IC 6-1.1-1:

- 36 (1) Assessed value.
- 37 (2) Exemption.
- 38 (3) Owner.
- 39 (4) Person.
- 40 (5) Property taxation.
- 41 (6) Real property.
- 42 (7) Township assessor.



1 (c) As used in this section, "PILOTS" means payments in lieu of
2 taxes.

3 (d) As used in this section, "property owner" means the owner
4 of real property described in IC 6-1.1-10-16.7 that is located in a
5 county with a consolidated city.

6 (e) Subject to the approval of a property owner, the legislative
7 body of the consolidated city may adopt an ordinance to require
8 the property owner to pay PILOTS at times set forth in the
9 ordinance with respect to real property that is subject to an
10 exemption under IC 6-1.1-10-16.7. The ordinance remains in full
11 force and effect until repealed or modified by the legislative body,
12 subject to the approval of the property owner.

13 (f) The PILOTS must be calculated so that the PILOTS are in
14 an amount that is:

15 (1) agreed upon by the property owner and the legislative
16 body of the consolidated city;

17 (2) a percentage of the property taxes that would have been
18 levied by the legislative body for the consolidated city and the
19 county upon the real property described in subsection (e) if
20 the property were not subject to an exemption from property
21 taxation; and

22 (3) not more than the amount of property taxes that would
23 have been levied by the legislative body for the consolidated
24 city and county upon the real property described in
25 subsection (e) if the property were not subject to an
26 exemption from property taxation.

27 (g) PILOTS shall be imposed as are property taxes and shall be
28 based on the assessed value of the real property described in
29 subsection (e). Except as provided in subsection (j), the township
30 assessor, or the county assessor if there is no township assessor for
31 the township, shall assess the real property described in subsection
32 (e) as though the property were not subject to an exemption.

33 (h) PILOTS collected under this section shall be deposited in the
34 housing trust fund established under IC 36-7-15.1-35.5 and used
35 for any purpose for which the housing trust fund may be used.

36 (i) PILOTS shall be due as set forth in the ordinance and bear
37 interest, if unpaid, as in the case of other taxes on property.
38 PILOTS shall be treated in the same manner as taxes for purposes
39 of all procedural and substantive provisions of law.

40 (j) If the duties of the township assessor have been transferred
41 to the county assessor as described in IC 6-1.1-1-24, a reference to
42 the township assessor in this section is considered to be a reference



1 **to the county assessor.**

2 SECTION 6. IC 36-7-15.1-35.5, AS AMENDED BY P.L.17-2020,
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2022]: Sec. 35.5. (a) The general assembly finds the
5 following:

6 (1) Federal law permits the sale of a multiple family housing
7 project that is or has been covered, in whole or in part, by a
8 contract for project based assistance from the United States
9 Department of Housing and Urban Development without
10 requiring the continuation of that project based assistance.

11 (2) Such a sale displaces the former residents of a multiple family
12 housing project described in subdivision (1) and increases the
13 shortage of safe and affordable housing for persons of low and
14 moderate income within the county.

15 (3) The displacement of families and individuals from affordable
16 housing requires increased expenditures of public funds for crime
17 prevention, public health and safety, fire and accident prevention,
18 and other public services and facilities.

19 (4) The establishment of a supplemental housing program under
20 this section will do the following:

21 (A) Benefit the health, safety, morals, and welfare of the
22 county and the state.

23 (B) Serve to protect and increase property values in the county
24 and the state.

25 (C) Benefit persons of low and moderate income by making
26 affordable housing available to them.

27 (5) The establishment of a supplemental housing program under
28 this section and sections 32 through 35 of this chapter is:

29 (A) necessary in the public interest; and

30 (B) a public use and purpose for which public money may be
31 spent and private property may be acquired.

32 (b) In addition to its other powers with respect to a housing program
33 under sections 32 through 35 of this chapter, the commission may
34 establish a supplemental housing program. Except as provided by this
35 section, the commission has the same powers and duties with respect
36 to the supplemental housing program that the commission has under
37 sections 32 through 35 of this chapter with respect to the housing
38 program.

39 (c) One (1) allocation area may be established for the supplemental
40 housing program. The commission is not required to make the findings
41 required under section 34(5) through 34(8) of this chapter with respect
42 to the allocation area. However, the commission must find that the



1 property contained within the boundaries of the allocation area consists
 2 solely of one (1) or more multiple family housing projects that are or
 3 have been covered, in whole or in part, by a contract for project based
 4 assistance from the United States Department of Housing and Urban
 5 Development or have been owned at one time by a public housing
 6 agency. The allocation area need not be contiguous. The definition of
 7 "base assessed value" set forth in section 35(a) of this chapter applies
 8 to the special fund established under section 26(b) of this chapter for
 9 the allocation area.

10 (d) The special fund established under section 26(b) of this chapter
 11 for the allocation area established under this section may be used only
 12 for the following purposes:

13 (1) Subject to subdivision (2), on January 1 and July 1 of each
 14 year the balance of the special fund shall be transferred to the
 15 housing trust fund established under subsection (e).

16 (2) The commission may provide each taxpayer in the allocation
 17 area a credit for property tax replacement in the manner provided
 18 by section 35(b)(7) of this chapter. Transfers made under
 19 subdivision (1) shall be reduced by the amount necessary to
 20 provide the credit.

21 (e) The commission shall, by resolution, establish a housing trust
 22 fund to be administered, subject to the terms of the resolution, by:

23 (1) the housing division of the consolidated city; or

24 (2) the department, division, or agency that has been designated
 25 to perform the public housing function by an ordinance adopted
 26 under IC 36-7-18-1.

27 (f) The housing trust fund consists of:

28 (1) amounts transferred to the fund under subsection (d);

29 (2) payments in lieu of taxes deposited in the fund under
 30 ~~IC 36-3-2-11 (before its expiration);~~ **IC 36-3-2-12;**

31 (3) gifts and grants to the fund;

32 (4) investment income earned on the fund's assets;

33 (5) money deposited in the fund under IC 36-2-7-10(k) or
 34 IC 36-2-7-10.7; and

35 (6) other funds from sources approved by the commission.

36 (g) The commission shall, by resolution, establish uses for the
 37 housing trust fund. However, the uses must be limited to:

38 (1) providing financial assistance to those individuals and
 39 families whose income is at or below eighty percent (80%) of the
 40 county's median income for individuals and families, respectively,
 41 to enable those individuals and families to purchase or lease
 42 residential units within the county;



- 1 (2) paying expenses of administering the fund;
 2 (3) making grants, loans, and loan guarantees for the
 3 development, rehabilitation, or financing of affordable housing
 4 for individuals and families whose income is at or below eighty
 5 percent (80%) of the county's median income for individuals and
 6 families, respectively, including the elderly, persons with
 7 disabilities, and homeless individuals and families;
 8 (4) providing technical assistance to nonprofit developers of
 9 affordable housing; and
 10 (5) funding other programs considered appropriate to meet the
 11 affordable housing and community development needs of lower
 12 income families (as defined in IC 5-20-4-5) and very low income
 13 families (as defined in IC 5-20-4-6), including lower income
 14 elderly individuals, individuals with disabilities, and homeless
 15 individuals.
- 16 (h) After June 30, 2017, at least forty percent (40%) of the money
 17 deposited in the housing trust fund shall be used for the following
 18 purposes:
- 19 (1) To assist existing owner occupants with the repair,
 20 rehabilitation, or reconstruction of their homes.
 21 (2) To finance the acquisition, rehabilitation, or new construction
 22 of homes for home buyers.
 23 (3) To acquire, rehabilitate, or construct rental housing.
- 24 (i) At least fifty percent (50%) of the dollars allocated for
 25 production, rehabilitation, or purchase of housing must be used for
 26 units to be occupied by individuals and families whose income is at or
 27 below fifty percent (50%) of the county's area median income for
 28 individuals and families, respectively.
- 29 (j) The low income housing trust fund advisory committee is
 30 established. The low-income housing trust fund advisory committee
 31 consists of eleven (11) members. The membership of the low income
 32 housing trust fund advisory committee is comprised of:
- 33 (1) one (1) member appointed by the mayor, to represent the
 34 interests of low income families;
 35 (2) one (1) member appointed by the mayor, to represent the
 36 interests of owners of subsidized, multifamily housing
 37 communities;
 38 (3) one (1) member appointed by the mayor, to represent the
 39 interests of banks and other financial institutions;
 40 (4) one (1) member appointed by the mayor, of the department of
 41 metropolitan development;
 42 (5) three (3) members representing the community at large



- 1 appointed by the commission, from nominations submitted to the
- 2 commission as a result of a general call for nominations from
- 3 neighborhood associations, community based organizations, and
- 4 other social services agencies;
- 5 (6) one (1) member appointed by and representing the Coalition
- 6 for Homeless Intervention and Prevention of Greater Indianapolis;
- 7 (7) one (1) member appointed by and representing the Local
- 8 Initiatives Support Corporation;
- 9 (8) one (1) member appointed by and representing the Indiana
- 10 housing and community development authority; and
- 11 (9) one (1) member appointed by and representing the
- 12 Indianapolis Neighborhood Housing Partnership.

13 Members of the low income housing trust fund advisory committee
 14 serve for a term of four (4) years, and are eligible for reappointment. If
 15 a vacancy exists on the committee, the appointing authority who
 16 appointed the former member whose position has become vacant shall
 17 appoint an individual to fill the vacancy. A committee member may be
 18 removed at any time by the appointing authority who appointed the
 19 committee member.

20 (k) The low income housing trust fund advisory committee shall
 21 make recommendations to the commission regarding:

- 22 (1) the development of policies and procedures for the uses of the
- 23 low income housing trust fund; and
- 24 (2) long term sources of capital for the low income housing trust
- 25 fund, including:
 - 26 (A) revenue from:
 - 27 (i) development ordinances;
 - 28 (ii) fees; or
 - 29 (iii) taxes;
 - 30 (B) financial market based income;
 - 31 (C) revenue derived from private sources; and
 - 32 (D) revenue generated from grants, gifts, donations, or income
 - 33 in any other form, from a:
 - 34 (i) government program;
 - 35 (ii) foundation; or
 - 36 (iii) corporation.

37 (l) The county treasurer shall invest the money in the fund not
 38 currently needed to meet the obligations of the fund in the same
 39 manner as other public funds may be invested.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 214, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 214 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

