Reprinted
January 29, 2016

SENATE BILL No. 225

DIGEST OF SB 225 (Updated January 28, 2016 2:28 pm - DI 73)

Citations Affected: IC 6-1.1.

Synopsis: Property tax exemption for affordable housing. Establishes standards for affordable rental housing property to be exempt from property taxation when the property does not otherwise qualify for a property tax exemption. Specifies that the exemption applies to properties owned by a 501(c)(3) organization (or a disregarded entity of such an organization) that are 100% occupied by residents who qualify as low income.

Effective: July 1, 2016.

Eckerty, Kenley

January 7, 2016, read first time and referred to Committee on Appropriations.
January 25, 2016, amended, reported favorably — Do Pass.
January 28, 2016, read second time, amended, ordered engrossed.

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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. 225

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 JULY 1, 2016]: 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.

(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, **as defined in section 47 of this chapter,** 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)~~ **(n)** 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.

(o) Property for affordable housing is exempt under this section if it satisfies the requirements of section 47 of this chapter.

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

SECTION 2. IC 6-1.1-10-47 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 47. (a) As used in this section, the following definitions apply:**

(1) "Area median income" refers to the area median income established by the United States Department of Housing and

Urban Development.

(2) "Low income" means at or below eighty percent (80%) of an area's median income.

(b) Tangible property owned, occupied, and used to provide affordable rental housing that is not otherwise exempt under section 16 of this chapter is exempt under section 16 of this chapter if all the following requirements are satisfied:

(1) The owner is:

(A) an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or

(B) a single member limited liability company:

(i) that is a disregarded entity under the Internal Revenue Code of an organization described in clause (A); and

(ii) for which an organization described in clause (A) is the only member.

(2) Subject to subsection (c), one hundred percent (100%) of the residential units are occupied by residents who qualify as low income.

(c) When applying the actual occupancy requirement set forth in subsection (b) to a property requiring construction or rehabilitation, a reasonable transition period is allowed for an owner to place the property in service. Whether an owner's transition period is reasonable is to be determined by considering all relevant facts and circumstances. For a property that does not require substantial construction or substantial rehabilitation, a one (1) year transition period to satisfy the actual occupancy requirement is considered reasonable. If a project operates under a government program that allows a longer transition period, the longer period must be used to determine reasonableness.

(d) The retention of a right by an owner to evict a tenant for failing to pay rent or for other misconduct will not disqualify an owner for the exemption.

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

SECTION 3. IC 6-1.1-11-3, AS AMENDED BY P.L.111-2014, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) Subject to subsections (e), (f), and (g), an owner of tangible property who wishes to obtain an exemption from property taxation 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) For an exemption application for affordable housing property covered by IC 6-1.1-10-47, the following:

(A) A copy of the owner's United States Internal Revenue Service's determination letter, or if the owner is a disregarded entity under the Internal Revenue Code, the United States Internal Revenue Service's determination letter of its one hundred percent (100%) ownership.

(2) A rent roll showing that the property is rented in accordance with the requirements of IC 6-1.1-10-47.

~~(6)~~ **(7)** 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.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 225, 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:

Page 5, between lines 40 and 41, begin a new line block indented and insert:

"**(1) "Area median income" refers to the area median income established by the United States Department of Housing and Urban Development.**".

Page 5, line 41, delete "(1)" and insert "**(2)**".

Page 6, delete lines 1 through 2.

Page 6, line 3, delete "or" and insert "**and**".

Page 6, line 4, after "affordable" insert "**rental**".

Page 6, delete lines 7 through 42, begin a new line block indented and insert:

"**(1) The owner is:**

(A) an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or

(B) a single member limited liability company:

(i) that is a disregarded entity under the Internal Revenue Code of an organization described in clause (A); and

(ii) for which an organization described in clause (A) is the only member.

(2) Subject to subsection (c), one hundred percent (100%) of the residential units are occupied by residents who qualify as low income.

(c) When applying the actual occupancy requirement set forth in subsection (b) to a property requiring construction or rehabilitation, a reasonable transition period is allowed for an owner to place the property in service. Whether an owner's transition period is reasonable is to be determined by considering all relevant facts and circumstances. For a property that does not require substantial construction or substantial rehabilitation, a one (1) year transition period to satisfy the actual occupancy requirement is considered reasonable. If a project operates under a government program that allows a longer transition period, the longer period must be used to determine reasonableness.

(d) The retention of a right by an owner to evict a tenant for failing to pay rent or for other misconduct will not, by itself, disqualify an owner for the exemption.".

Page 7, delete lines 1 through 19.

and when so amended that said bill do pass.

(Reference is to SB 225 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 225 be amended to read as follows:

Page 6, line 32, delete ", by itself,".

(Reference is to SB 225 as printed January 26, 2016.)

ECKERTY