



January 15, 2014

SENATE BILL No. 249

DIGEST OF SB 249 (Updated January 14, 2014 12:30 pm - DI 58)

Citations Affected: IC 6-1.1.

Synopsis: Property tax sales. Specifies that a property tax penalty for property sold by a county executive through a certificate of sale procedure is to be removed from the tax duplicate if the penalty is associated with a delinquency that was not due until after the date of the original tax sale but is due before the issuance of the certificate of sale by the county executive.

Effective: July 1, 2014.

Buck

January 9, 2014, read first time and referred to Committee on Tax and Fiscal Policy.
January 14, 2014, amended, reported favorably — Do Pass.

SB 249—LS 6549/DI 58



January 15, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 249

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 6-1.1-25-4, AS AMENDED BY P.L.118-2013,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 4. (a) The period for redemption of real property
4 sold under IC 6-1.1-24 is:
5 (1) one (1) year after the date of sale;
6 (2) one hundred twenty (120) days after the date of sale to a
7 purchasing agency qualified under IC 36-7-17 or IC 36-7-17.1; or
8 (3) one hundred twenty (120) days after the date of sale of real
9 property on the list prepared under IC 6-1.1-24-1(a)(2) or
10 IC 6-1.1-24-1.5.
11 (b) Subject to subsection (1) and IC 6-1.1-24-9(d), the period for
12 redemption of real property:
13 (1) on which the county executive acquires a lien under
14 IC 6-1.1-24-6; and
15 (2) for which the certificate of sale is not sold under
16 IC 6-1.1-24-6.1;

SB 249—LS 6549/DI 58



1 is one hundred twenty (120) days after the date the county executive
2 acquires the lien under IC 6-1.1-24-6.

3 (c) The period for redemption of real property:

4 (1) on which the county executive acquires a lien under
5 IC 6-1.1-24-6; and

6 (2) for which the certificate of sale is sold under IC 6-1.1-24;
7 is one hundred twenty (120) days after the date of sale of the certificate
8 of sale under IC 6-1.1-24.

9 (d) When a deed for real property is executed under this chapter, the
10 county auditor shall cancel the certificate of sale and file the canceled
11 certificate in the office of the county auditor. If real property that
12 appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale
13 and an amount that is at least equal to the minimum sale price required
14 under IC 6-1.1-24-5 is not received, the county auditor shall issue a
15 deed to the real property, subject to this chapter.

16 (e) When a deed is issued to a county executive under this chapter,
17 the taxes and special assessments for which the real property was
18 offered for sale, and all subsequent taxes, special assessments, interest,
19 penalties, and cost of sale shall be removed from the tax duplicate in
20 the same manner that taxes are removed by certificate of error.

21 (f) A tax deed executed under this chapter vests in the grantee an
22 estate in fee simple absolute, free and clear of all liens and
23 encumbrances created or suffered before or after the tax sale except
24 those liens granted priority under federal law and the lien of the state
25 or a political subdivision for taxes and special assessments which
26 accrue subsequent to the sale and which are not removed under
27 subsection (e). However, subject to subsection (g), the estate is subject
28 to:

29 (1) all easements, covenants, declarations, and other deed
30 restrictions shown by public records;

31 (2) laws, ordinances, and regulations concerning governmental
32 police powers, including zoning, building, land use,
33 improvements on the land, land division, and environmental
34 protection; and

35 (3) liens and encumbrances created or suffered by the grantee.

36 (g) A tax deed executed under this chapter for real property sold in
37 a tax sale:

38 (1) does not operate to extinguish an easement recorded before
39 the date of the tax sale in the office of the recorder of the county
40 in which the real property is located, regardless of whether the
41 easement was taxed under this article separately from the real
42 property; and



- 1 (2) conveys title subject to all easements recorded before the date
 2 of the tax sale in the office of the recorder of the county in which
 3 the real property is located.
- 4 (h) A tax deed executed under this chapter is prima facie evidence
 5 of:
- 6 (1) the regularity of the sale of the real property described in the
 7 deed;
 8 (2) the regularity of all proper proceedings; and
 9 (3) valid title in fee simple in the grantee of the deed.
- 10 (i) A county auditor is not required to execute a deed to the county
 11 executive under this chapter if the county executive determines that the
 12 property involved contains hazardous waste or another environmental
 13 hazard for which the cost of abatement or alleviation will exceed the
 14 fair market value of the property. The county executive may enter the
 15 property to conduct environmental investigations.
- 16 (j) If the county executive makes the determination under subsection
 17 (i) as to any interest in an oil or gas lease or separate mineral rights, the
 18 county treasurer shall certify all delinquent taxes, interest, penalties,
 19 and costs assessed under IC 6-1.1-24 to the clerk, following the
 20 procedures in IC 6-1.1-23-9. After the date of the county treasurer's
 21 certification, the certified amount is subject to collection as delinquent
 22 personal property taxes under IC 6-1.1-23. Notwithstanding
 23 IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an
 24 interest shall be zero (0) until production commences.
- 25 (k) When a deed is issued to a purchaser of a certificate of sale sold
 26 under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that
 27 taxes are removed by certificate of error, remove from the tax duplicate
 28 the taxes, special assessments, interest, penalties, and costs remaining
 29 due as the difference between:
- 30 (1) the amount of:
- 31 (A) the last minimum bid under IC 6-1.1-24-5; **plus**
 32 (B) **any penalty associated with a delinquency that was not**
 33 **due until after the date of the sale under IC 6-1.1-24-5 but**
 34 **is due before the issuance of the certificate of sale, with**
 35 **respect to taxes included in the minimum bid that were not**
 36 **due at the time of the sale under IC 6-1.1-24-5; and**
- 37 (2) the amount paid for the certificate of sale.
- 38 (l) If a tract or item of real property did not sell at a tax sale and the
 39 county treasurer and the owner of real property agree before the
 40 expiration of the period for redemption under subsection (b) to a
 41 mutually satisfactory arrangement for the payment of the entire amount
 42 required for redemption under section 2 of this chapter before the



1 expiration of a period for redemption extended under this subsection:

2 (1) the county treasurer may extend the period for redemption;

3 and

4 (2) except as provided in subsection (m), the extended period for
5 redemption expires one (1) year after the date of the agreement.

6 (m) If the owner of real property fails to meet the terms of an
7 agreement entered into with the county treasurer under subsection (l),
8 the county treasurer may terminate the agreement after providing thirty
9 (30) days written notice to the owner. If the county treasurer gives
10 notice under this subsection, the extended period for redemption
11 established under subsection (l) expires thirty (30) days after the date
12 of the notice.

13 SECTION 2. IC 6-1.1-25-4.6, AS AMENDED BY P.L.118-2013,
14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2014]: Sec. 4.6. (a) After the expiration of the redemption
16 period specified in section 4 of this chapter but not later than six (6)
17 months after the expiration of the period of redemption:

18 (1) the purchaser, the purchaser's assignee, the county executive,
19 or the purchaser of the certificate of sale under IC 6-1.1-24 may;
20 or

21 (2) in a county where the county auditor and county treasurer
22 have an agreement under section 4.7 of this chapter, the county
23 auditor shall, upon the request of the purchaser or the purchaser's
24 assignee;

25 file a verified petition in the same court and under the same cause
26 number in which the judgment of sale was entered asking the court to
27 direct the county auditor to issue a tax deed if the real property is not
28 redeemed from the sale. Notice of the filing of this petition shall be
29 given to the same parties and in the same manner as provided in section
30 4.5 of this chapter, except that, if notice is given by publication, only
31 one (1) publication is required. The notice required by this section is
32 considered sufficient if the notice is sent to the address required by
33 section 4.5(d) of this chapter. Any person owning or having an interest
34 in the tract or real property may file a written objection to the petition
35 with the court not later than thirty (30) days after the date the petition
36 was filed. If a written objection is timely filed, the court shall conduct
37 a hearing on the objection.

38 (b) Not later than sixty-one (61) days after the petition is filed under
39 subsection (a), the court shall enter an order directing the county
40 auditor (on the production of the certificate of sale and a copy of the
41 order) to issue to the petitioner a tax deed if the court finds that the
42 following conditions exist:

SB 249—LS 6549/DI 58



- 1 (1) The time of redemption has expired.
 2 (2) The tract or real property has not been redeemed from the sale
 3 before the expiration of the period of redemption specified in
 4 section 4 of this chapter.
 5 (3) Except with respect to a petition for the issuance of a tax deed
 6 under a sale of the certificate of sale on the property under
 7 IC 6-1.1-24-6.1 or IC 6-1.1-24-6.8, **or with respect to penalties**
 8 **described in section 4(k) of this chapter**, all taxes and special
 9 assessments, penalties, and costs have been paid.
 10 (4) The notices required by this section and section 4.5 of this
 11 chapter have been given.
 12 (5) The petitioner has complied with all the provisions of law
 13 entitling the petitioner to a deed.

14 The county auditor shall execute deeds issued under this subsection in
 15 the name of the state under the county auditor's name. If a certificate of
 16 sale is lost before the execution of a deed, the county auditor shall issue
 17 a replacement certificate if the county auditor is satisfied that the
 18 original certificate existed.

19 (c) Upon application by the grantee of a valid tax deed in the same
 20 court and under the same cause number in which the judgment of sale
 21 was entered, the court shall enter an order to place the grantee of a
 22 valid tax deed in possession of the real estate. The court may enter any
 23 orders and grant any relief that is necessary or desirable to place or
 24 maintain the grantee of a valid tax deed in possession of the real estate.

25 (d) Except as provided in subsections (e) and (f), if:

- 26 (1) the verified petition referred to in subsection (a) is timely
 27 filed; and
 28 (2) the court refuses to enter an order directing the county auditor
 29 to execute and deliver the tax deed because of the failure of the
 30 petitioner under subsection (a) to fulfill the notice requirement of
 31 subsection (a);

32 the court shall order the return of the amount, if any, by which the
 33 purchase price exceeds the minimum bid on the property under
 34 IC 6-1.1-24-5 minus a penalty of twenty-five percent (25%) of that
 35 excess. The petitioner is prohibited from participating in any manner
 36 in the next succeeding tax sale in the county under IC 6-1.1-24. The
 37 county auditor shall deposit penalties paid under this subsection in the
 38 county general fund.

39 (e) Notwithstanding subsection (d), in all cases in which:

- 40 (1) the verified petition referred to in subsection (a) is timely
 41 filed;
 42 (2) the petitioner under subsection (a) has made a bona fide



- 1 attempt to comply with the statutory requirements under
 2 subsection (b) for the issuance of the tax deed but has failed to
 3 comply with these requirements;
- 4 (3) the court refuses to enter an order directing the county auditor
 5 to execute and deliver the tax deed because of the failure to
 6 comply with these requirements; and
- 7 (4) the purchaser, the purchaser's successors or assignees, or the
 8 purchaser of the certificate of sale under IC 6-1.1-24 files a claim
 9 with the county auditor for refund not later than thirty (30) days
 10 after the entry of the order of the court refusing to direct the
 11 county auditor to execute and deliver the tax deed;
- 12 the county auditor shall not execute the deed but shall refund the
 13 purchase money minus a penalty of twenty-five percent (25%) of the
 14 purchase money from the county treasury to the purchaser, the
 15 purchaser's successors or assignees, or the purchaser of the certificate
 16 of sale under IC 6-1.1-24. The county auditor shall deposit penalties
 17 paid under this subsection in the county general fund. All the
 18 delinquent taxes and special assessments shall then be reinstated and
 19 recharged to the tax duplicate and collected in the same manner as if
 20 the property had not been offered for sale. The tract or item of real
 21 property, if it is then eligible for sale under IC 6-1.1-24, shall be placed
 22 on the delinquent list as an initial offering under IC 6-1.1-24.
- 23 (f) Notwithstanding subsections (d) and (e), the court shall not order
 24 the return of the purchase price or any part of the purchase price if:
- 25 (1) the purchaser or the purchaser of the certificate of sale under
 26 IC 6-1.1-24 has failed to provide notice or has provided
 27 insufficient notice as required by section 4.5 of this chapter; and
 28 (2) the sale is otherwise valid.
- 29 (g) A tax deed executed under this section vests in the grantee an
 30 estate in fee simple absolute, free and clear of all liens and
 31 encumbrances created or suffered before or after the tax sale except
 32 those liens granted priority under federal law, and the lien of the state
 33 or a political subdivision for taxes and special assessments that accrue
 34 subsequent to the sale. However, the estate is subject to all easements,
 35 covenants, declarations, and other deed restrictions and laws governing
 36 land use, including all zoning restrictions and liens and encumbrances
 37 created or suffered by the purchaser at the tax sale. The deed is prima
 38 facie evidence of:
- 39 (1) the regularity of the sale of the real property described in the
 40 deed;
- 41 (2) the regularity of all proper proceedings; and
- 42 (3) valid title in fee simple in the grantee of the deed.



1 (h) A tax deed issued under this section is incontestable except by
2 appeal from the order of the court directing the county auditor to issue
3 the tax deed filed not later than sixty (60) days after the date of the
4 court's order.



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 249, 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 3, line 33, after "sale" insert "**under IC 6-1.1-24-5**".

Page 3, line 34, delete "tax deed," and insert "**certificate of sale,**".

Page 3, line 35, after "sale" delete ";" and insert "**under IC 6-1.1-24-5;**".

and when so amended that said bill do pass.

(Reference is to SB 249 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

