



February 24, 2014

ENGROSSED SENATE BILL No. 249

DIGEST OF SB 249 (Updated February 24, 2014 11:42 am - DI 120)

Citations Affected: IC 6-1.1; IC 32-21.

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. Requires a county auditor to place a notation on the tax duplicate when the county auditor determines that property is no longer eligible for a standard deduction and indicates that a bona fide purchaser of the property is not liable for taxes and penalties that accrue before the notation is made as a result of the removal of the deduction. Indicates that certain defects in a lease recorded with the county recorder do not invalidate the effect of recording the lease.

Effective: July 1, 2014.

Buck, Tallian, Hershman, Skinner

(HOUSE SPONSOR — VANNATTER)

January 9, 2014, read first time and referred to Committee on Tax and Fiscal Policy.
January 14, 2014, amended, reported favorably — Do Pass.
January 16, 2014, read second time, ordered engrossed. Engrossed.
January 21, 2014, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

February 4, 2014, read first time and referred to Committee on Ways and Means.
February 24, 2014, amended, reported — Do Pass.

ES 249—LS 6549/DI 58



February 24, 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.

ENGROSSED 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 6-1.1-12-37, AS AMENDED BY SEA 24-2014,
2 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 37. (a) The following definitions apply throughout
4 this section:
5 (1) "Dwelling" means any of the following:
6 (A) Residential real property improvements that an individual
7 uses as the individual's residence, including a house or garage.
8 (B) A mobile home that is not assessed as real property that an
9 individual uses as the individual's residence.
10 (C) A manufactured home that is not assessed as real property
11 that an individual uses as the individual's residence.
12 (2) "Homestead" means an individual's principal place of
13 residence:
14 (A) that is located in Indiana;
15 (B) that:
16 (i) the individual owns;

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- 1 (ii) the individual is buying under a contract; recorded in the
 2 county recorder's office, that provides that the individual is
 3 to pay the property taxes on the residence;
 4 (iii) the individual is entitled to occupy as a
 5 tenant-stockholder (as defined in 26 U.S.C. 216) of a
 6 cooperative housing corporation (as defined in 26 U.S.C.
 7 216); or
 8 (iv) is a residence described in section 17.9 of this chapter
 9 that is owned by a trust if the individual is an individual
 10 described in section 17.9 of this chapter; and
 11 (C) that consists of a dwelling and the real estate, not
 12 exceeding one (1) acre, that immediately surrounds that
 13 dwelling.

14 Except as provided in subsection (k), the term does not include
 15 property owned by a corporation, partnership, limited liability
 16 company, or other entity not described in this subdivision.

17 (b) Each year a homestead is eligible for a standard deduction from
 18 the assessed value of the homestead for an assessment date. *Except as*
 19 *provided in subsection (p)*, the deduction provided by this section
 20 applies to property taxes first due and payable for an assessment date
 21 only if an individual has an interest in the homestead described in
 22 subsection (a)(2)(B) on:

- 23 (1) the assessment date; or
 24 (2) any date in the same year after an assessment date that a
 25 statement is filed under subsection (e) or section 44 of this
 26 chapter, if the property consists of real property.

27 Subject to subsection (c), the auditor of the county shall record and
 28 make the deduction for the individual or entity qualifying for the
 29 deduction.

30 (c) Except as provided in section 40.5 of this chapter, the total
 31 amount of the deduction that a person may receive under this section
 32 for a particular year is the lesser of:

- 33 (1) sixty percent (60%) of the assessed value of the real property,
 34 mobile home not assessed as real property, or manufactured home
 35 not assessed as real property; or
 36 (2) forty-five thousand dollars (\$45,000).

37 (d) A person who has sold real property, a mobile home not assessed
 38 as real property, or a manufactured home not assessed as real property
 39 to another person under a contract that provides that the contract buyer
 40 is to pay the property taxes on the real property, mobile home, or
 41 manufactured home may not claim the deduction provided under this
 42 section with respect to that real property, mobile home, or



- 1 manufactured home.
- 2 (e) Except as provided in sections 17.8 and 44 of this chapter and
 3 subject to section 45 of this chapter, an individual who desires to claim
 4 the deduction provided by this section must file a certified statement in
 5 duplicate, on forms prescribed by the department of local government
 6 finance, with the auditor of the county in which the homestead is
 7 located. The statement must include:
- 8 (1) the parcel number or key number of the property and the name
 9 of the city, town, or township in which the property is located;
 10 (2) the name of any other location in which the applicant or the
 11 applicant's spouse owns, is buying, or has a beneficial interest in
 12 residential real property;
 13 (3) the names of:
- 14 (A) the applicant and the applicant's spouse (if any):
 15 (i) as the names appear in the records of the United States
 16 Social Security Administration for the purposes of the
 17 issuance of a Social Security card and Social Security
 18 number; or
 19 (ii) that they use as their legal names when they sign their
 20 names on legal documents;
 21 if the applicant is an individual; or
 22 (B) each individual who qualifies property as a homestead
 23 under subsection (a)(2)(B) and the individual's spouse (if any):
 24 (i) as the names appear in the records of the United States
 25 Social Security Administration for the purposes of the
 26 issuance of a Social Security card and Social Security
 27 number; or
 28 (ii) that they use as their legal names when they sign their
 29 names on legal documents;
 30 if the applicant is not an individual; and
 31 (4) either:
- 32 (A) the last five (5) digits of the applicant's Social Security
 33 number and the last five (5) digits of the Social Security
 34 number of the applicant's spouse (if any); or
 35 (B) if the applicant or the applicant's spouse (if any) ~~do~~ **does**
 36 not have a Social Security number, any of the following for
 37 that individual:
- 38 (i) The last five (5) digits of the individual's driver's license
 39 number.
 40 (ii) The last five (5) digits of the individual's state
 41 identification card number.
 42 (iii) If the individual does not have a driver's license or a



1 state identification card, the last five (5) digits of a control
 2 number that is on a document issued to the individual by the
 3 federal government and determined by the department of
 4 local government finance to be acceptable.

5 If a form or statement provided to the county auditor under this section,
 6 IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or
 7 part or all of the Social Security number of a party or other number
 8 described in subdivision (4)(B) of a party, the telephone number and
 9 the Social Security number or other number described in subdivision
 10 (4)(B) included are confidential. The statement may be filed in person
 11 or by mail. If the statement is mailed, the mailing must be postmarked
 12 on or before the last day for filing. The statement applies for that first
 13 year and any succeeding year for which the deduction is allowed. With
 14 respect to real property, the statement must be completed and dated in
 15 the calendar year for which the person desires to obtain the deduction
 16 and filed with the county auditor on or before January 5 of the
 17 immediately succeeding calendar year. With respect to a mobile home
 18 that is not assessed as real property, the person must file the statement
 19 during the twelve (12) months before March 31 of the year for which
 20 the person desires to obtain the deduction.

21 (f) If an individual who is receiving the deduction provided by this
 22 section or who otherwise qualifies property for a deduction under this
 23 section:

24 (1) changes the use of the individual's property so that part or all
 25 of the property no longer qualifies for the deduction under this
 26 section; or

27 (2) is no longer eligible for a deduction under this section on
 28 another parcel of property because:

29 (A) the individual would otherwise receive the benefit of more
 30 than one (1) deduction under this chapter; or

31 (B) the individual maintains the individual's principal place of
 32 residence with another individual who receives a deduction
 33 under this section;

34 the individual must file a certified statement with the auditor of the
 35 county, notifying the auditor of the change of use, not more than sixty
 36 (60) days after the date of that change. An individual who fails to file
 37 the statement required by this subsection is liable for any additional
 38 taxes that would have been due on the property if the individual had
 39 filed the statement as required by this subsection plus a civil penalty
 40 equal to ten percent (10%) of the additional taxes due. The civil penalty
 41 imposed under this subsection is in addition to any interest and
 42 penalties for a delinquent payment that might otherwise be due. One



1 percent (1%) of the total civil penalty collected under this subsection
2 shall be transferred by the county to the department of local
3 government finance for use by the department in establishing and
4 maintaining the homestead property data base under subsection (i) and,
5 to the extent there is money remaining, for any other purposes of the
6 department. This amount becomes part of the property tax liability for
7 purposes of this article.

8 (g) The department of local government finance shall adopt rules or
9 guidelines concerning the application for a deduction under this
10 section.

11 (h) This subsection does not apply to property in the first year for
12 which a deduction is claimed under this section if the sole reason that
13 a deduction is claimed on other property is that the individual or
14 married couple maintained a principal residence at the other property
15 on March 1 in the same year in which an application for a deduction is
16 filed under this section or, if the application is for a homestead that is
17 assessed as personal property, on March 1 in the immediately
18 preceding year and the individual or married couple is moving the
19 individual's or married couple's principal residence to the property that
20 is the subject of the application. Except as provided in subsection (n),
21 the county auditor may not grant an individual or a married couple a
22 deduction under this section if:

23 (1) the individual or married couple, for the same year, claims the
24 deduction on two (2) or more different applications for the
25 deduction; and

26 (2) the applications claim the deduction for different property.

27 (i) The department of local government finance shall provide secure
28 access to county auditors to a homestead property data base that
29 includes access to the homestead owner's name and the numbers
30 required from the homestead owner under subsection (e)(4) for the sole
31 purpose of verifying whether an owner is wrongly claiming a deduction
32 under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or
33 IC 6-3.5.

34 (j) A county auditor may require an individual to provide evidence
35 proving that the individual's residence is the individual's principal place
36 of residence as claimed in the certified statement filed under subsection
37 (e). The county auditor may limit the evidence that an individual is
38 required to submit to a state income tax return, a valid driver's license,
39 or a valid voter registration card showing that the residence for which
40 the deduction is claimed is the individual's principal place of residence.
41 The department of local government finance shall work with county
42 auditors to develop procedures to determine whether a property owner



1 that is claiming a standard deduction or homestead credit is not eligible
 2 for the standard deduction or homestead credit because the property
 3 owner's principal place of residence is outside Indiana.

4 (k) As used in this section, "homestead" includes property that
 5 satisfies each of the following requirements:

6 (1) The property is located in Indiana and consists of a dwelling
 7 and the real estate, not exceeding one (1) acre, that immediately
 8 surrounds that dwelling.

9 (2) The property is the principal place of residence of an
 10 individual.

11 (3) The property is owned by an entity that is not described in
 12 subsection (a)(2)(B).

13 (4) The individual residing on the property is a shareholder,
 14 partner, or member of the entity that owns the property.

15 (5) The property was eligible for the standard deduction under
 16 this section on March 1, 2009.

17 (l) If a county auditor terminates a deduction for property described
 18 in subsection (k) with respect to property taxes that are:

19 (1) imposed for an assessment date in 2009; and

20 (2) first due and payable in 2010;

21 on the grounds that the property is not owned by an entity described in
 22 subsection (a)(2)(B), the county auditor shall reinstate the deduction if
 23 the taxpayer provides proof that the property is eligible for the
 24 deduction in accordance with subsection (k) and that the individual
 25 residing on the property is not claiming the deduction for any other
 26 property.

27 (m) For ~~assessments~~ *assessment* dates after 2009, the term
 28 "homestead" includes:

29 (1) a deck or patio;

30 (2) a gazebo; or

31 (3) another residential yard structure, as defined in rules adopted
 32 by the department of local government finance (other than a
 33 swimming pool);

34 that is assessed as real property and attached to the dwelling.

35 (n) A county auditor shall grant an individual a deduction under this
 36 section regardless of whether the individual and the individual's spouse
 37 claim a deduction on two (2) different applications and each
 38 application claims a deduction for different property if the property
 39 owned by the individual's spouse is located outside Indiana and the
 40 individual files an affidavit with the county auditor containing the
 41 following information:

42 (1) The names of the county and state in which the individual's



1 spouse claims a deduction substantially similar to the deduction
2 allowed by this section.

3 (2) A statement made under penalty of perjury that the following
4 are true:

5 (A) That the individual and the individual's spouse maintain
6 separate principal places of residence.

7 (B) That neither the individual nor the individual's spouse has
8 an ownership interest in the other's principal place of
9 residence.

10 (C) That neither the individual nor the individual's spouse has,
11 for that same year, claimed a standard or substantially similar
12 deduction for any property other than the property maintained
13 as a principal place of residence by the respective individuals.

14 A county auditor may require an individual or an individual's spouse to
15 provide evidence of the accuracy of the information contained in an
16 affidavit submitted under this subsection. The evidence required of the
17 individual or the individual's spouse may include state income tax
18 returns, excise tax payment information, property tax payment
19 information, driver license information, and voter registration
20 information.

21 (o) If:

22 (1) a property owner files a statement under subsection (e) to
23 claim the deduction provided by this section for a particular
24 property; and

25 (2) the county auditor receiving the filed statement determines
26 that the property owner's property is not eligible for the deduction;
27 the county auditor shall inform the property owner of the county
28 auditor's determination in writing. If a property owner's property is not
29 eligible for the deduction because the county auditor has determined
30 that the property is not the property owner's principal place of
31 residence, the property owner may appeal the county auditor's
32 determination to the county property tax assessment board of appeals
33 as provided in IC 6-1.1-15. The county auditor shall inform the
34 property owner of the owner's right to appeal to the county property tax
35 assessment board of appeals when the county auditor informs the
36 property owner of the county auditor's determination under this
37 subsection.

38 (p) *An individual is entitled to the deduction under this section for*
39 *a homestead for a particular assessment date if:*

40 (1) *either:*

41 (A) *the individual's interest in the homestead as described in*
42 *subsection (a)(2)(B) is conveyed to the individual after the*



- 1 *assessment date, but within the calendar year in which the*
 2 *assessment date occurs; or*
 3 *(B) the individual contracts to purchase the homestead after*
 4 *the assessment date, but within the calendar year in which the*
 5 *assessment date occurs;*
 6 (2) *on the assessment date:*
 7 *(A) the property on which the homestead is currently located*
 8 *was vacant land; or*
 9 *(B) the construction of the dwelling that constitutes the*
 10 *homestead was not completed;*
 11 (3) *either:*
 12 *(A) the individual files the certified statement required by*
 13 *subsection (e) on or before December 31 of the calendar year*
 14 *in which the assessment date occurs to claim the deduction*
 15 *under this section; or*
 16 *(B) a sales disclosure form that meets the requirements of*
 17 *section 44 of this chapter is submitted to the county assessor*
 18 *on or before December 31 of the calendar year for the*
 19 *individual's purchase of the homestead; and*
 20 (4) *the individual files with the county auditor on or before*
 21 *December 31 of the calendar year in which the assessment date*
 22 *occurs a statement that:*
 23 *(A) lists any other property for which the individual would*
 24 *otherwise receive a deduction under this section for the*
 25 *assessment date; and*
 26 *(B) cancels the deduction described in clause (A) for that*
 27 *property.*
 28 *An individual who satisfies the requirements of subdivisions (1)*
 29 *through (4) is entitled to the deduction under this section for the*
 30 *homestead for the assessment date, even if on the assessment date the*
 31 *property on which the homestead is currently located was vacant land*
 32 *or the construction of the dwelling that constitutes the homestead was*
 33 *not completed. The county auditor shall apply the deduction for the*
 34 *assessment date and for the assessment date in any later year in which*
 35 *the homestead remains eligible for the deduction. A homestead that*
 36 *qualifies for the deduction under this section as provided in this*
 37 *subsection is considered a homestead for purposes of section 37.5 of*
 38 *this chapter and IC 6-1.1-20.6. The county auditor shall cancel the*
 39 *deduction under this section for any property that is located in the*
 40 *county and is listed on the statement filed by the individual under*
 41 *subdivision (4). If the property listed on the statement filed under*
 42 *subdivision (4) is located in another county, the county auditor who*



1 receives the statement shall forward the statement to the county
2 auditor of that other county, and the county auditor of that other
3 county shall cancel the deduction under this section for that property.

4 ~~(p)~~ (q) This subsection applies to an application for the deduction
5 provided by this section that is filed for an assessment date occurring
6 after December 31, 2013. Notwithstanding any other provision of this
7 section, an individual buying a mobile home that is not assessed as
8 real property or a manufactured home that is not assessed as real
9 property under a contract providing that the individual is to pay the
10 property taxes on the mobile home or manufactured home is not
11 entitled to the deduction provided by this section unless the parties to
12 the contract comply with IC 9-17-6-17.

13 ~~(q)~~ (r) This subsection:

14 (1) applies to an application for the deduction provided by this
15 section that is filed for an assessment date occurring after
16 December 31, 2013; and

17 (2) does not apply to an individual described in subsection ~~(p)~~
18 (q).

19 The owner of a mobile home that is not assessed as real property or a
20 manufactured home that is not assessed as real property must attach
21 a copy of the owner's title to the mobile home or manufactured home
22 to the application for the deduction provided by this section.

23 (s) If a deduction is granted under this section for real property
24 and the county auditor later determines that the real property is no
25 longer eligible for the deduction under this section, the county
26 auditor shall make a notation on the tax duplicate that the real
27 property is ineligible for the deduction and indicate the date the
28 notation is made. A bona fide purchaser without knowledge of the
29 removal of the deduction under this section is not liable for any
30 additional taxes and civil penalty that result from the removal of
31 the deduction, and the additional taxes and civil penalty (if any) are
32 imposed for property taxes first due and payable for an assessment
33 date occurring before the notation is placed on the tax duplicate.

34 SECTION 2. IC 6-1.1-25-4, AS AMENDED BY P.L.118-2013,
35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2014]: Sec. 4. (a) The period for redemption of real property
37 sold under IC 6-1.1-24 is:

38 (1) one (1) year after the date of sale;

39 (2) one hundred twenty (120) days after the date of sale to a
40 purchasing agency qualified under IC 36-7-17 or IC 36-7-17.1; or

41 (3) one hundred twenty (120) days after the date of sale of real
42 property on the list prepared under IC 6-1.1-24-1(a)(2) or



- 1 IC 6-1.1-24-1.5.
- 2 (b) Subject to subsection (l) and IC 6-1.1-24-9(d), the period for
3 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 not sold under
7 IC 6-1.1-24-6.1;
- 8 is one hundred twenty (120) days after the date the county executive
9 acquires the lien under IC 6-1.1-24-6.
- 10 (c) The period for redemption of real property:
- 11 (1) on which the county executive acquires a lien under
12 IC 6-1.1-24-6; and
- 13 (2) for which the certificate of sale is sold under IC 6-1.1-24;
- 14 is one hundred twenty (120) days after the date of sale of the certificate
15 of sale under IC 6-1.1-24.
- 16 (d) When a deed for real property is executed under this chapter, the
17 county auditor shall cancel the certificate of sale and file the canceled
18 certificate in the office of the county auditor. If real property that
19 appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale
20 and an amount that is at least equal to the minimum sale price required
21 under IC 6-1.1-24-5 is not received, the county auditor shall issue a
22 deed to the real property, subject to this chapter.
- 23 (e) When a deed is issued to a county executive under this chapter,
24 the taxes and special assessments for which the real property was
25 offered for sale, and all subsequent taxes, special assessments, interest,
26 penalties, and cost of sale shall be removed from the tax duplicate in
27 the same manner that taxes are removed by certificate of error.
- 28 (f) A tax deed executed under this chapter vests in the grantee an
29 estate in fee simple absolute, free and clear of all liens and
30 encumbrances created or suffered before or after the tax sale except
31 those liens granted priority under federal law and the lien of the state
32 or a political subdivision for taxes and special assessments which
33 accrue subsequent to the sale and which are not removed under
34 subsection (e). However, subject to subsection (g), the estate is subject
35 to:
- 36 (1) all easements, covenants, declarations, and other deed
37 restrictions shown by public records;
- 38 (2) laws, ordinances, and regulations concerning governmental
39 police powers, including zoning, building, land use,
40 improvements on the land, land division, and environmental
41 protection; and
- 42 (3) liens and encumbrances created or suffered by the grantee.



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



1 **due at the time of the sale under IC 6-1.1-24-5; and**
 2 **(2) the amount paid for the certificate of sale.**
 3 (l) If a tract or item of real property did not sell at a tax sale and the
 4 county treasurer and the owner of real property agree before the
 5 expiration of the period for redemption under subsection (b) to a
 6 mutually satisfactory arrangement for the payment of the entire amount
 7 required for redemption under section 2 of this chapter before the
 8 expiration of a period for redemption extended under this subsection:
 9 (1) the county treasurer may extend the period for redemption;
 10 and
 11 (2) except as provided in subsection (m), the extended period for
 12 redemption expires one (1) year after the date of the agreement.
 13 (m) If the owner of real property fails to meet the terms of an
 14 agreement entered into with the county treasurer under subsection (l),
 15 the county treasurer may terminate the agreement after providing thirty
 16 (30) days written notice to the owner. If the county treasurer gives
 17 notice under this subsection, the extended period for redemption
 18 established under subsection (l) expires thirty (30) days after the date
 19 of the notice.
 20 SECTION 3. IC 6-1.1-25-4.6, AS AMENDED BY P.L.118-2013,
 21 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2014]: Sec. 4.6. (a) After the expiration of the redemption
 23 period specified in section 4 of this chapter but not later than six (6)
 24 months after the expiration of the period of redemption:
 25 (1) the purchaser, the purchaser's assignee, the county executive,
 26 or the purchaser of the certificate of sale under IC 6-1.1-24 may;
 27 or
 28 (2) in a county where the county auditor and county treasurer
 29 have an agreement under section 4.7 of this chapter, the county
 30 auditor shall, upon the request of the purchaser or the purchaser's
 31 assignee;
 32 file a verified petition in the same court and under the same cause
 33 number in which the judgment of sale was entered asking the court to
 34 direct the county auditor to issue a tax deed if the real property is not
 35 redeemed from the sale. Notice of the filing of this petition shall be
 36 given to the same parties and in the same manner as provided in section
 37 4.5 of this chapter, except that, if notice is given by publication, only
 38 one (1) publication is required. The notice required by this section is
 39 considered sufficient if the notice is sent to the address required by
 40 section 4.5(d) of this chapter. Any person owning or having an interest
 41 in the tract or real property may file a written objection to the petition
 42 with the court not later than thirty (30) days after the date the petition



1 was filed. If a written objection is timely filed, the court shall conduct
2 a hearing on the objection.

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

8 (1) The time of redemption has expired.

9 (2) The tract or real property has not been redeemed from the sale
10 before the expiration of the period of redemption specified in
11 section 4 of this chapter.

12 (3) Except with respect to a petition for the issuance of a tax deed
13 under a sale of the certificate of sale on the property under
14 IC 6-1.1-24-6.1 or IC 6-1.1-24-6.8, **or with respect to penalties**
15 **described in section 4(k) of this chapter**, all taxes and special
16 assessments, penalties, and costs have been paid.

17 (4) The notices required by this section and section 4.5 of this
18 chapter have been given.

19 (5) The petitioner has complied with all the provisions of law
20 entitling the petitioner to a deed.

21 The county auditor shall execute deeds issued under this subsection in
22 the name of the state under the county auditor's name. If a certificate of
23 sale is lost before the execution of a deed, the county auditor shall issue
24 a replacement certificate if the county auditor is satisfied that the
25 original certificate existed.

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

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

33 (1) the verified petition referred to in subsection (a) is timely
34 filed; and

35 (2) the court refuses to enter an order directing the county auditor
36 to execute and deliver the tax deed because of the failure of the
37 petitioner under subsection (a) to fulfill the notice requirement of
38 subsection (a);

39 the court shall order the return of the amount, if any, by which the
40 purchase price exceeds the minimum bid on the property under
41 IC 6-1.1-24-5 minus a penalty of twenty-five percent (25%) of that
42 excess. The petitioner is prohibited from participating in any manner



1 in the next succeeding tax sale in the county under IC 6-1.1-24. The
 2 county auditor shall deposit penalties paid under this subsection in the
 3 county general fund.

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

5 (1) the verified petition referred to in subsection (a) is timely
 6 filed;

7 (2) the petitioner under subsection (a) has made a bona fide
 8 attempt to comply with the statutory requirements under
 9 subsection (b) for the issuance of the tax deed but has failed to
 10 comply with these requirements;

11 (3) the court refuses to enter an order directing the county auditor
 12 to execute and deliver the tax deed because of the failure to
 13 comply with these requirements; and

14 (4) the purchaser, the purchaser's successors or assignees, or the
 15 purchaser of the certificate of sale under IC 6-1.1-24 files a claim
 16 with the county auditor for refund not later than thirty (30) days
 17 after the entry of the order of the court refusing to direct the
 18 county auditor to execute and deliver the tax deed;

19 the county auditor shall not execute the deed but shall refund the
 20 purchase money minus a penalty of twenty-five percent (25%) of the
 21 purchase money from the county treasury to the purchaser, the
 22 purchaser's successors or assignees, or the purchaser of the certificate
 23 of sale under IC 6-1.1-24. The county auditor shall deposit penalties
 24 paid under this subsection in the county general fund. All the
 25 delinquent taxes and special assessments shall then be reinstated and
 26 recharged to the tax duplicate and collected in the same manner as if
 27 the property had not been offered for sale. The tract or item of real
 28 property, if it is then eligible for sale under IC 6-1.1-24, shall be placed
 29 on the delinquent list as an initial offering under IC 6-1.1-24.

30 (f) Notwithstanding subsections (d) and (e), the court shall not order
 31 the return of the purchase price or any part of the purchase price if:

32 (1) the purchaser or the purchaser of the certificate of sale under
 33 IC 6-1.1-24 has failed to provide notice or has provided
 34 insufficient notice as required by section 4.5 of this chapter; and

35 (2) the sale is otherwise valid.

36 (g) A tax deed executed under this section vests in the grantee an
 37 estate in fee simple absolute, free and clear of all liens and
 38 encumbrances created or suffered before or after the tax sale except
 39 those liens granted priority under federal law, and the lien of the state
 40 or a political subdivision for taxes and special assessments that accrue
 41 subsequent to the sale. However, the estate is subject to all easements,
 42 covenants, declarations, and other deed restrictions and laws governing



1 land use, including all zoning restrictions and liens and encumbrances
 2 created or suffered by the purchaser at the tax sale. The deed is prima
 3 facie evidence of:

- 4 (1) the regularity of the sale of the real property described in the
 5 deed;
 6 (2) the regularity of all proper proceedings; and
 7 (3) valid title in fee simple in the grantee of the deed.

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

12 SECTION 4. IC 32-21-4-1, AS AMENDED BY P.L.129-2008,
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2014]: Sec. 1. (a) The following must be recorded in the
 15 recorder's office of the county where the land is situated:

- 16 (1) A conveyance or mortgage of land or of any interest in land.
 17 (2) A lease for more than three (3) years.

18 (b) A conveyance, mortgage, or lease takes priority according to the
 19 time of its filing. The conveyance, mortgage, or lease is fraudulent and
 20 void as against any subsequent purchaser, lessee, or mortgagee in good
 21 faith and for a valuable consideration if the purchaser's, lessee's, or
 22 mortgagee's deed, mortgage, or lease is first recorded.

23 (c) ~~This subsection applies only to a mortgage. This subsection~~
 24 ~~applies regardless of when a mortgage was recorded. If:~~

- 25 (1) an instrument referred to in subsection (a) is recorded; and
 26 (2) the instrument does not comply with the:

- 27 (A) requirements of:
 28 (i) IC 32-21-2-3; or
 29 (ii) IC 32-21-2-7; or

30 (B) technical requirements of IC 36-2-11-16(c);

31 the instrument is validly recorded and provides constructive notice of
 32 the contents of the instrument as of the date of filing.



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.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 249, 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 6-1.1-12-37, AS AMENDED BY SEA 24-2014, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 37. (a) The following definitions apply throughout this section:

- (1) "Dwelling" means any of the following:
 - (A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.
 - (B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.
 - (C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.
- (2) "Homestead" means an individual's principal place of residence:
 - (A) that is located in Indiana;
 - (B) that:
 - (i) the individual owns;

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- (ii) the individual is buying under a contract; recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;
 - (iii) the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); or
 - (iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual described in section 17.9 of this chapter; and
- (C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

Except as provided in subsection (k), the term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. *Except as provided in subsection (p)*, the deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:

- (1) the assessment date; or
- (2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

Subject to subsection (c), the auditor of the county shall record and make the deduction for the individual or entity qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

- (1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or
- (2) forty-five thousand dollars (\$45,000).

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or



manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include:

- (1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;
- (2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;
- (3) the names of:

- (A) the applicant and the applicant's spouse (if any):

- (i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or
- (ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

- (B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

- (i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or
- (ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is not an individual; and

- (4) either:

- (A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

- (B) if the applicant or the applicant's spouse (if any) ~~do~~ **does** not have a Social Security number, any of the following for that individual:

- (i) The last five (5) digits of the individual's driver's license number.
- (ii) The last five (5) digits of the individual's state identification card number.
- (iii) If the individual does not have a driver's license or a



state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the federal government and determined by the department of local government finance to be acceptable.

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the statement must be completed and dated in the calendar year for which the person desires to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) If an individual who is receiving the deduction provided by this section or who otherwise qualifies property for a deduction under this section:

(1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this section; or

(2) is no longer eligible for a deduction under this section on another parcel of property because:

(A) the individual would otherwise receive the benefit of more than one (1) deduction under this chapter; or

(B) the individual maintains the individual's principal place of residence with another individual who receives a deduction under this section;

the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One



percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property data base under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

(g) The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section.

(h) This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. Except as provided in subsection (n), the county auditor may not grant an individual or a married couple a deduction under this section if:

- (1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and
- (2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or IC 6-3.5.

(j) A county auditor may require an individual to provide evidence proving that the individual's residence is the individual's principal place of residence as claimed in the certified statement filed under subsection (e). The county auditor may limit the evidence that an individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner



that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the property owner's principal place of residence is outside Indiana.

(k) As used in this section, "homestead" includes property that satisfies each of the following requirements:

- (1) The property is located in Indiana and consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.
- (2) The property is the principal place of residence of an individual.
- (3) The property is owned by an entity that is not described in subsection (a)(2)(B).
- (4) The individual residing on the property is a shareholder, partner, or member of the entity that owns the property.
- (5) The property was eligible for the standard deduction under this section on March 1, 2009.

(l) If a county auditor terminates a deduction for property described in subsection (k) with respect to property taxes that are:

- (1) imposed for an assessment date in 2009; and
- (2) first due and payable in 2010;

on the grounds that the property is not owned by an entity described in subsection (a)(2)(B), the county auditor shall reinstate the deduction if the taxpayer provides proof that the property is eligible for the deduction in accordance with subsection (k) and that the individual residing on the property is not claiming the deduction for any other property.

(m) For ~~assessments~~ *assessment* dates after 2009, the term "homestead" includes:

- (1) a deck or patio;
- (2) a gazebo; or
- (3) another residential yard structure, as defined in rules adopted by the department of local government finance (other than a swimming pool);

that is assessed as real property and attached to the dwelling.

(n) A county auditor shall grant an individual a deduction under this section regardless of whether the individual and the individual's spouse claim a deduction on two (2) different applications and each application claims a deduction for different property if the property owned by the individual's spouse is located outside Indiana and the individual files an affidavit with the county auditor containing the following information:

- (1) The names of the county and state in which the individual's



spouse claims a deduction substantially similar to the deduction allowed by this section.

(2) A statement made under penalty of perjury that the following are true:

(A) That the individual and the individual's spouse maintain separate principal places of residence.

(B) That neither the individual nor the individual's spouse has an ownership interest in the other's principal place of residence.

(C) That neither the individual nor the individual's spouse has, for that same year, claimed a standard or substantially similar deduction for any property other than the property maintained as a principal place of residence by the respective individuals.

A county auditor may require an individual or an individual's spouse to provide evidence of the accuracy of the information contained in an affidavit submitted under this subsection. The evidence required of the individual or the individual's spouse may include state income tax returns, excise tax payment information, property tax payment information, driver license information, and voter registration information.

(o) If:

(1) a property owner files a statement under subsection (e) to claim the deduction provided by this section for a particular property; and

(2) the county auditor receiving the filed statement determines that the property owner's property is not eligible for the deduction; the county auditor shall inform the property owner of the county auditor's determination in writing. If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the county property tax assessment board of appeals as provided in IC 6-1.1-15. The county auditor shall inform the property owner of the owner's right to appeal to the county property tax assessment board of appeals when the county auditor informs the property owner of the county auditor's determination under this subsection.

(p) An individual is entitled to the deduction under this section for a homestead for a particular assessment date if:

(1) either:

(A) the individual's interest in the homestead as described in subsection (a)(2)(B) is conveyed to the individual after the



assessment date, but within the calendar year in which the assessment date occurs; or

(B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date occurs;

(2) on the assessment date:

(A) the property on which the homestead is currently located was vacant land; or

(B) the construction of the dwelling that constitutes the homestead was not completed;

(3) either:

(A) the individual files the certified statement required by subsection (e) on or before December 31 of the calendar year in which the assessment date occurs to claim the deduction under this section; or

(B) a sales disclosure form that meets the requirements of section 44 of this chapter is submitted to the county assessor on or before December 31 of the calendar year for the individual's purchase of the homestead; and

(4) the individual files with the county auditor on or before December 31 of the calendar year in which the assessment date occurs a statement that:

(A) lists any other property for which the individual would otherwise receive a deduction under this section for the assessment date; and

(B) cancels the deduction described in clause (A) for that property.

An individual who satisfies the requirements of subdivisions (1) through (4) is entitled to the deduction under this section for the homestead for the assessment date, even if on the assessment date the property on which the homestead is currently located was vacant land or the construction of the dwelling that constitutes the homestead was not completed. The county auditor shall apply the deduction for the assessment date and for the assessment date in any later year in which the homestead remains eligible for the deduction. A homestead that qualifies for the deduction under this section as provided in this subsection is considered a homestead for purposes of section 37.5 of this chapter and IC 6-1.1-20.6. The county auditor shall cancel the deduction under this section for any property that is located in the county and is listed on the statement filed by the individual under subdivision (4). If the property listed on the statement filed under subdivision (4) is located in another county, the county auditor who



receives the statement shall forward the statement to the county auditor of that other county, and the county auditor of that other county shall cancel the deduction under this section for that property.

~~(p)~~ **(q)** This subsection applies to an application for the deduction provided by this section that is filed for an assessment date occurring after December 31, 2013. Notwithstanding any other provision of this section, an individual buying a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property under a contract providing that the individual is to pay the property taxes on the mobile home or manufactured home is not entitled to the deduction provided by this section unless the parties to the contract comply with IC 9-17-6-17.

~~(q)~~ **(r)** This subsection:

(1) applies to an application for the deduction provided by this section that is filed for an assessment date occurring after December 31, 2013; and

(2) does not apply to an individual described in subsection ~~(p)~~ **(q)**.

The owner of a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property must attach a copy of the owner's title to the mobile home or manufactured home to the application for the deduction provided by this section.

(s) If a deduction is granted under this section for real property and the county auditor later determines that the real property is no longer eligible for the deduction under this section, the county auditor shall make a notation on the tax duplicate that the real property is ineligible for the deduction and indicate the date the notation is made. A bona fide purchaser without knowledge of the removal of the deduction under this section is not liable for any additional taxes and civil penalty that result from the removal of the deduction, and the additional taxes and civil penalty (if any) are imposed for property taxes first due and payable for an assessment date occurring before the notation is placed on the tax duplicate."

Page 7, after line 4, begin a new paragraph and insert:

"SECTION 4. IC 32-21-4-1, AS AMENDED BY P.L.129-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The following must be recorded in the recorder's office of the county where the land is situated:

- (1) A conveyance or mortgage of land or of any interest in land.
- (2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and



void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.

(c) ~~This subsection applies only to a mortgage. This subsection applies regardless of when a mortgage was recorded.~~ If:

(1) an instrument referred to in subsection (a) is recorded; and

(2) the instrument does not comply with the:

(A) requirements of:

(i) IC 32-21-2-3; or

(ii) IC 32-21-2-7; or

(B) technical requirements of IC 36-2-11-16(c);

the instrument is validly recorded and provides constructive notice of the contents of the instrument as of the date of filing."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 249 as printed January 15, 2014.)

BROWN T, Chair

Committee Vote: yeas 18, nays 0.

