



Reprinted
February 28, 2014

ENGROSSED SENATE BILL No. 249

DIGEST OF SB 249 (Updated February 27, 2014 3:10 pm - DI 92)

Citations Affected: IC 6-1.1; IC 32-21; IC 32-25.

Synopsis: Transfers of real property. 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. Specifies procedures for collecting unpaid taxes after the county auditor determines that a property is no longer eligible for a standard deduction. Provides that no lien attaches for any additional taxes and civil penalties resulting from the removal of the deduction with respect to a bona fide purchaser of the property who is without knowledge of the county auditor's determination. Indicates that certain defects in a lease recorded with the county recorder do not invalidate the effect of recording the lease. Provides that a person acquiring a condominium unit is not liable for unpaid assessments if the condominium association, manager, or board of directors fails to provide a statement of unpaid assessments within 10 days of the person's written request.

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.
February 27, 2014, read second time, amended, ordered engrossed.

ES 249—LS 6549/DI 58



Reprinted
February 28, 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 6-1.1-25-4, 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;

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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:



- 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.

5 SECTION 3. IC 6-1.1-36-17, AS AMENDED BY P.L.257-2013,
 6 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2014]: Sec. 17. (a) As used in this section, "nonreverting
 8 fund" refers to a nonreverting fund established under subsection (c).

9 (b) Each county auditor that makes a determination that property
 10 was not eligible for a standard deduction under IC 6-1.1-12-37 ~~or a~~
 11 ~~homestead credit under IC 6-1.1-20.9 (repealed)~~ in a particular year
 12 shall:

13 (1) notify the county treasurer of the determination; **and**

14 (2) **do one (1) or more of the following:**

15 (A) **Make a notation on the tax duplicate that the property**
 16 **is ineligible for the standard deduction and indicate the**
 17 **date the notation is made.**

18 (B) **Record a notice of an ineligible homestead lien under**
 19 **subsection (d)(2).**

20 The county auditor shall issue a notice of taxes, interest, and penalties
 21 due to the owner **that improperly received the standard deduction**
 22 and include a statement that the payment is to be made payable to the
 23 county auditor. The notice must require full payment of the amount
 24 owed within thirty (30) days. **The additional taxes and civil penalties**
 25 **that result from the removal of the deduction, if any, are imposed**
 26 **for property taxes first due and payable for an assessment date**
 27 **occurring before the earlier of the date of the notation made under**
 28 **subdivision (2)(A) or the date a notice of an ineligible homestead**
 29 **lien is recorded under subsection (d)(2) in the office of the county**
 30 **recorder. With respect to property subject to a determination**
 31 **made under this subsection that is owned by a bona fide purchaser**
 32 **without knowledge of the determination, no lien attaches for any**
 33 **additional taxes and civil penalties that result from the removal of**
 34 **the deduction.**

35 (c) Each county auditor shall establish a nonreverting fund. Upon
 36 collection of the adjustment in tax due (and any interest and penalties
 37 on that amount) after the termination of a deduction or credit as
 38 specified in subsection (b), the county treasurer shall deposit that
 39 amount:

40 (1) in the nonreverting fund, if the county contains a consolidated
 41 city; or

42 (2) if the county does not contain a consolidated city:



1 (A) in the nonreverting fund, to the extent that the amount
 2 collected, after deducting the direct cost of any contract,
 3 including contract related expenses, under which the
 4 contractor is required to identify homestead deduction
 5 eligibility, does not cause the total amount deposited in the
 6 nonreverting fund under this subsection for the year during
 7 which the amount is collected to exceed one hundred thousand
 8 dollars (\$100,000); or

9 (B) in the county general fund, to the extent that the amount
 10 collected exceeds the amount that may be deposited in the
 11 nonreverting fund under clause (A).

12 **(d) Any part of the amount due under subsection (b) that is not**
 13 **collected by the due date shall be subject to collection under one**
 14 **(1) or more of the following:**

15 **(1) After being** placed on the tax duplicate for the affected
 16 property and collected in the same manner as other property taxes.

17 **(2) Through a notice of an ineligible homestead lien recorded**
 18 **in the county recorder's office without charge.**

19 The adjustment in tax due (and any interest and penalties on that
 20 amount) after the termination of a deduction or credit as specified in
 21 subsection (b) shall be deposited as specified in ~~this~~ subsection (c) only
 22 in the first year in which that amount is collected. **Upon the collection**
 23 **of the amount due under subsection (b) or the release of a lien**
 24 **recorded under subdivision (2), the county auditor shall submit the**
 25 **appropriate documentation to the county recorder, who shall**
 26 **amend the information recorded under subdivision (2) without**
 27 **charge to indicate that the lien has been released or the amount has**
 28 **been paid in full.**

29 ~~(d)~~ (e) The amount to be deposited in the nonreverting fund or the
 30 county general fund under subsection (c) includes adjustments in the
 31 tax due as a result of the termination of deductions or credits available
 32 only for property that satisfies the eligibility for a standard deduction
 33 under IC 6-1.1-12-37, or a homestead credit under IC 6-1.1-20.9
 34 ~~(repeated)~~, including the following:

35 (1) Supplemental deductions under IC 6-1.1-12-37.5.

36 (2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26,
 37 IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26,
 38 or any other law.

39 (3) Credit for excessive property taxes under IC 6-1.1-20.6-7.5 or
 40 IC 6-1.1-20.6-8.5.

41 Any amount paid that exceeds the amount required to be deposited
 42 under subsection (c)(1) or (c)(2) shall be distributed as property taxes.



1 ~~(e)~~ **(f)** Money deposited under subsection (c)(1) or (c)(2) shall be
 2 treated as miscellaneous revenue. Distributions shall be made from the
 3 nonreverting fund established under this section upon appropriation by
 4 the county fiscal body and shall be made only for the following
 5 purposes:

6 (1) Fees and other costs incurred by the county auditor to discover
 7 property that is eligible for a standard deduction under
 8 IC 6-1.1-12-37. ~~or a homestead credit under IC 6-1.1-20-9~~
 9 ~~(repealed).~~

10 (2) Other expenses of the office of the county auditor.

11 (3) The cost of preparing, sending, and processing notices
 12 described in IC 6-1.1-22-8.1(b)(9).

13 The amount of deposits in a reverting fund, the balance of a
 14 nonreverting fund, and expenditures from a reverting fund may not be
 15 considered in establishing the budget of the office of the county auditor
 16 or in setting property tax levies that will be used in any part to fund the
 17 office of the county auditor.

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

22 (1) A conveyance or mortgage of land or of any interest in land.

23 (2) A lease for more than three (3) years.

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

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

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

32 (2) the instrument does not comply with the:

33 (A) requirements of:

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

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

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

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

39 SECTION 5. IC 32-25-5-2 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as
 41 provided in subsection (b) **or (d)**, in a voluntary conveyance, the
 42 grantee of a condominium unit is jointly and severally liable with the



1 grantor for all unpaid assessments against the grantor for the grantor's
2 share of the common expenses incurred before the grant or conveyance,
3 without prejudice to the grantee's right to recover from the grantor the
4 amounts of common expenses paid by the grantee.

5 (b) The grantee:

6 (1) is entitled to a statement from the **association**, manager, or
7 board of directors setting forth the amount of the unpaid
8 assessments against the grantor; and

9 (2) is not liable for, nor shall the condominium unit conveyed be
10 subject to a lien for, any unpaid assessments against the grantor
11 in excess of the amount set forth in the statement.

12 **(c) The grantee may obtain the statement of unpaid assessments**
13 **described in subsection (b) by making a written request to the**
14 **association, manager, or board of directors at:**

15 **(1) the last address at which the grantor made a payment of**
16 **the assessments; or**

17 **(2) the address for the association, manager, or board of**
18 **directors as listed in the records of the secretary of state.**

19 **(d) If the association, manager, or board of directors does not**
20 **provide, by first class or certified mail, a statement of unpaid**
21 **assessments not later than ten (10) business days after receipt of**
22 **the written request, the:**

23 **(1) grantee is not liable for; and**

24 **(2) condominium unit conveyed is not subject to a lien for;**
25 **any unpaid assessments against the grantor.**



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.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 249 be amended to read as follows:

Page 1, delete lines 1 through 16.

Delete pages 2 through 8.

Page 9, delete lines 1 through 33.

Page 15, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 4. IC 6-1.1-36-17, AS AMENDED BY P.L.257-2013, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) As used in this section, "nonreverting fund" refers to a nonreverting fund established under subsection (c).

(b) Each county auditor that makes a determination that property was not eligible for a standard deduction under IC 6-1.1-12-37 ~~or a homestead credit under IC 6-1.1-20-9 (repealed)~~ in a particular year shall:

- (1) notify the county treasurer of the determination; **and**
- (2) **do one (1) or more of the following:**
 - (A) **Make a notation on the tax duplicate that the property**

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is ineligible for the standard deduction and indicate the date the notation is made.

(B) Record a notice of an ineligible homestead lien under subsection (d)(2).

The county auditor shall issue a notice of taxes, interest, and penalties due to the owner **that improperly received the standard deduction** and include a statement that the payment is to be made payable to the county auditor. The notice must require full payment of the amount owed within thirty (30) days. **The additional taxes and civil penalties that result from the removal of the deduction, if any, are imposed for property taxes first due and payable for an assessment date occurring before the earlier of the date of the notation made under subdivision (2)(A) or the date a notice of an ineligible homestead lien is recorded under subsection (d)(2) in the office of the county recorder. With respect to property subject to a determination made under this subsection that is owned by a bona fide purchaser without knowledge of the determination, no lien attaches for any additional taxes and civil penalties that result from the removal of the deduction.**

(c) Each county auditor shall establish a nonreverting fund. Upon collection of the adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b), the county treasurer shall deposit that amount:

(1) in the nonreverting fund, if the county contains a consolidated city; or

(2) if the county does not contain a consolidated city:

(A) in the nonreverting fund, to the extent that the amount collected, after deducting the direct cost of any contract, including contract related expenses, under which the contractor is required to identify homestead deduction eligibility, does not cause the total amount deposited in the nonreverting fund under this subsection for the year during which the amount is collected to exceed one hundred thousand dollars (\$100,000); or

(B) in the county general fund, to the extent that the amount collected exceeds the amount that may be deposited in the nonreverting fund under clause (A).

(d) Any part of the amount due under subsection (b) that is not collected by the due date shall be subject to collection under one (1) or more of the following:

(1) After being placed on the tax duplicate for the affected



property and collected in the same manner as other property taxes.

(2) Through a notice of an ineligible homestead lien recorded in the county recorder's office without charge.

The adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b) shall be deposited as specified in ~~this~~ subsection (c) only in the first year in which that amount is collected. **Upon the collection of the amount due under subsection (b) or the release of a lien recorded under subdivision (2), the county auditor shall submit the appropriate documentation to the county recorder, who shall amend the information recorded under subdivision (2) without charge to indicate that the lien has been released or the amount has been paid in full.**

~~(d)~~ (e) The amount to be deposited in the nonreverting fund or the county general fund under subsection (c) includes adjustments in the tax due as a result of the termination of deductions or credits available only for property that satisfies the eligibility for a standard deduction under IC 6-1.1-12-37, ~~or a homestead credit under IC 6-1.1-20.9 (repeated)~~; including the following:

- (1) Supplemental deductions under IC 6-1.1-12-37.5.
- (2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26, IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26, or any other law.
- (3) Credit for excessive property taxes under IC 6-1.1-20.6-7.5 or IC 6-1.1-20.6-8.5.

Any amount paid that exceeds the amount required to be deposited under subsection (c)(1) or (c)(2) shall be distributed as property taxes.

~~(e)~~ (f) Money deposited under subsection (c)(1) or (c)(2) shall be treated as miscellaneous revenue. Distributions shall be made from the nonreverting fund established under this section upon appropriation by the county fiscal body and shall be made only for the following purposes:

- (1) Fees and other costs incurred by the county auditor to discover property that is eligible for a standard deduction under IC 6-1.1-12-37. ~~or a homestead credit under IC 6-1.1-20.9 (repeated)~~.
- (2) Other expenses of the office of the county auditor.
- (3) The cost of preparing, sending, and processing notices described in IC 6-1.1-22-8.1(b)(9).

The amount of deposits in a reverting fund, the balance of a nonreverting fund, and expenditures from a reverting fund may not be considered in establishing the budget of the office of the county auditor



or in setting property tax levies that will be used in any part to fund the office of the county auditor."

Page 15, after line 32, begin a new paragraph and insert:

"SECTION 6. IC 32-25-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as provided in subsection (b) **or (d)**, in a voluntary conveyance, the grantee of a condominium unit is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the common expenses incurred before the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts of common expenses paid by the grantee.

(b) The grantee:

- (1) is entitled to a statement from the **association**, manager, or board of directors setting forth the amount of the unpaid assessments against the grantor; and
- (2) is not liable for, nor shall the condominium unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth in the statement.

(c) The grantee may obtain the statement of unpaid assessments described in subsection (b) by making a written request to the association, manager, or board of directors at:

- (1) the last address at which the grantor made a payment of the assessments; or**
- (2) the address for the association, manager, or board of directors as listed in the records of the secretary of state.**

(d) If the association, manager, or board of directors does not provide, by first class or certified mail, a statement of unpaid assessments not later than ten (10) business days after receipt of the written request, the:

- (1) grantee is not liable for; and**
- (2) condominium unit conveyed is not subject to a lien for; any unpaid assessments against the grantor."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 249 as printed February 24, 2014.)

KARICKHOFF

