

# SENATE BILL No. 296

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1.

**Synopsis:** Sale of tax delinquent real property. Amends the definition of "substantial property interest of public record" to include ownership of any interest that has been severed from a tract of land. Requires a county auditor, in addition to sending a notice of the impending sale of a parcel of real property to the owner of the property, to also send a copy of the notice to any person with a substantial property interest of public record in the real property. Provides that the estate in real property vested in the grantee under a tax deed is subject to leases shown by public record if the tax deed conveys only an interest in machinery, a building, a structure, or other severed improvements located on, in, or above the land. Provides that if a tax deed conveys only an interest in machinery, a building, a structure, or other severed improvements located on, in, or above the land, the rights of the landowner in the land, in a lease of the severed improvements, or in a memorandum of a lease of the severed improvements are not limited or abrogated by the tax deed.

**Effective:** July 1, 2023.

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January 19, 2023, read first time and referred to Committee on Judiciary.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE BILL No. 296

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 6-1.1-23.9-3, AS ADDED BY P.L.187-2018,  
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2023]: Sec. 3. (a) "Substantial property interest of public  
 4 record" means:  
 5 (1) title to or interest in a tract that is within the tract's chain of  
 6 record title and **that is**:  
 7 (1) (A) possessed by a person; and  
 8 (2) (B) either:  
 9 (A) (i) recorded in the office of the county recorder for the  
 10 county in which the tract is located; or  
 11 (B) (ii) available for public inspection and properly indexed  
 12 in the office of the circuit court clerk in the county in which  
 13 the tract is located; **or**  
 14 (2) **if the ownership of:**  
 15 (A) **improvements;**  
 16 (B) **mineral rights;**  
 17 (C) **air rights;**



1                   **(D) water rights; or**  
 2                   **(E) other rights;**  
 3                   **has been severed from a tract of land, ownership of any**  
 4                   **interest in the tract of land or of any interest severed from the**  
 5                   **tract of land;**

6                   not later than the hour and date **on which** a sale is scheduled to  
 7                   commence under IC 6-1.1-24. The term does not include a lien held by  
 8                   the state or a political subdivision.

9                   (b) For purposes of IC 6-1.1-24 and IC 6-1.1-25 only, chain of  
 10                  record title includes instruments executed by the owner and recorded  
 11                  within the five (5) day period before the date the owner acquires title  
 12                  to the tract.

13                  SECTION 2. IC 6-1.1-24-4, AS AMENDED BY P.L.251-2015,  
 14                  SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15                  JULY 1, 2023]: Sec. 4. (a) This section does not apply to vacant or  
 16                  abandoned real property that is on the list prepared by the county  
 17                  auditor under section 1.5 of this chapter.

18                  (b) Not less than twenty-one (21) days before the earliest date on  
 19                  which the application for judgment and order for sale of real property  
 20                  eligible for sale may be made, the county auditor shall send a notice of  
 21                  the sale by certified mail, return receipt requested, and by first class  
 22                  mail: ~~to:~~

- 23                  (1) **to:**  
 24                        **(A) the owner of record of real property with a single owner;**  
 25                        or  
 26                        ~~(2)~~ **(B) at least one (1) of the owners, as of the date of**  
 27                        **certification, of real property with multiple owners; and**  
 28                        **(2) to any person with a substantial property interest of public**  
 29                        **record in the real property to which the notice relates.**

30                  **A notice sent under subdivision (1) shall be sent to** at the last address  
 31                  of the owner for the property as indicated in the transfer book records  
 32                  of the county auditor under IC 6-1.1-5-4 on the date that the tax sale list  
 33                  is certified. If both notices are returned, the county auditor shall take an  
 34                  additional reasonable step to notify the property owner, if the county  
 35                  auditor determines that an additional reasonable step to notify the  
 36                  property owner is practical. The county auditor shall prepare the notice  
 37                  in the form prescribed by the state board of accounts. The notice must  
 38                  set forth the key number, if any, of the real property and a street  
 39                  address, if any, or other common description of the property other than  
 40                  a legal description. The notice must include the statement set forth in  
 41                  section 2(b)(4) of this chapter. The county auditor must present proof  
 42                  of this mailing to the court along with the application for judgment and



1 order for sale. Failure by an owner to receive or accept the notice  
 2 required by this section does not affect the validity of the judgment and  
 3 order. The owner of real property shall notify the county auditor of the  
 4 owner's correct address. The notice required under this section is  
 5 considered sufficient if the notice is mailed to the address or addresses  
 6 required by this section.

7 (c) On or before the day of sale, the county auditor shall list, on the  
 8 tax sale record required by IC 6-1.1-25-8, all properties that will be  
 9 offered for sale.

10 SECTION 3. IC 6-1.1-25-4, AS AMENDED BY P.L.66-2021,  
 11 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2023]: Sec. 4. (a) There is no right to redeem real property  
 13 under this chapter after its sale under IC 6-1.1-24 if the real property is  
 14 on the vacant and abandoned property list prepared by the county  
 15 auditor under IC 6-1.1-24-1.5. The period for redemption of any other  
 16 real property sold under IC 6-1.1-24 is:

17 (1) one (1) year after the date of sale; or

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

20 (b) Subject to subsection (k) and IC 6-1.1-24-9(d), the period for  
 21 redemption of real property:

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

24 (2) for which the certificate of sale is not sold under  
 25 IC 6-1.1-24-6.1;

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

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

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

31 (2) for which the certificate of sale is sold under IC 6-1.1-24;

32 is one hundred twenty (120) days after the date of sale of the certificate  
 33 of sale under IC 6-1.1-24.

34 (d) When a deed for real property is executed under this chapter, the  
 35 county auditor shall cancel the certificate of sale and file the canceled  
 36 certificate in the office of the county auditor.

37 (e) When a deed is issued to a county executive or other political  
 38 subdivision under this chapter, the taxes and special assessments for  
 39 which the real property was offered for sale and all subsequent taxes,  
 40 special assessments, interest, penalties, and cost of sale shall be  
 41 removed from the tax duplicate in the same manner that taxes are  
 42 removed by certificate of error.



1 (f) A tax deed executed under this chapter vests in the grantee an  
 2 estate in fee simple absolute, free and clear of all liens and  
 3 encumbrances created or suffered before or after the tax sale except  
 4 those liens granted priority under federal law and the lien of the state  
 5 or a political subdivision for taxes and special assessments which  
 6 accrue subsequent to the sale and which are not removed under  
 7 subsection (e). However, subject to subsection (g), the estate is subject  
 8 to:

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

11 (2) laws, ordinances, and regulations concerning governmental  
 12 police powers, including zoning, building, land use,  
 13 improvements on the land, land division, and environmental  
 14 protection; ~~and~~

15 (3) liens and encumbrances created or suffered by the grantee;  
 16 **and**

17 **(4) leases shown by public record if the tax deed executed**  
 18 **under this chapter conveys only an interest in machinery, a**  
 19 **building, a structure, or other severed improvements located**  
 20 **on, in, or above the land.**

21 **The rights that an owner of land has in the land, in a lease**  
 22 **described in subdivision (4), or in a memorandum of a lease**  
 23 **described in subdivision (4) are not limited or abrogated by a tax**  
 24 **deed conveying an interest in one (1) or more severed**  
 25 **improvements described in subdivision (4).**

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

28 (1) does not operate to extinguish an easement recorded before  
 29 the date of the tax sale in the office of the recorder of the county  
 30 in which the real property is located, regardless of whether the  
 31 easement was taxed under this article separately from the real  
 32 property; and

33 (2) conveys title subject to all easements recorded before the date  
 34 of the tax sale in the office of the recorder of the county in which  
 35 the real property is located.

36 (h) A tax deed executed under this chapter is prima facie evidence  
 37 of:

38 (1) the regularity of the sale of the real property described in the  
 39 deed;

40 (2) the regularity of all proper proceedings; and

41 (3) valid title in fee simple in the grantee of the deed.

42 (i) A county auditor is not required to execute a deed to the county



1 executive under this chapter if the county executive determines that the  
 2 property involved contains hazardous waste or another environmental  
 3 hazard for which the cost of abatement or alleviation will exceed the  
 4 fair market value of the property. The county executive may enter the  
 5 property to conduct environmental investigations.

6 (j) When a deed is issued to a purchaser of a certificate of sale sold  
 7 under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that  
 8 taxes are removed by certificate of error, remove from the tax duplicate  
 9 the taxes, special assessments, interest, penalties, and costs remaining  
 10 due as the difference between:

11 (1) the amount of:

12 (A) the last minimum bid under IC 6-1.1-24-5; plus

13 (B) any penalty associated with a delinquency that was not due  
 14 until after the date of the sale under IC 6-1.1-24-5 but is due  
 15 before the issuance of the certificate of sale, with respect to  
 16 taxes included in the minimum bid that were not due at the  
 17 time of the sale under IC 6-1.1-24-5; and

18 (2) the amount paid for the certificate of sale.

19 (k) If a tract or item of real property did not sell at a tax sale or a  
 20 sale conducted under IC 6-1.1-24-6.1 and the county treasurer and the  
 21 owner of real property agree before the expiration of the period for  
 22 redemption under subsection (b) to a mutually satisfactory arrangement  
 23 for the payment of the entire amount required for redemption under  
 24 section 2 of this chapter before the expiration of a period for  
 25 redemption extended under this subsection:

26 (1) the county treasurer may extend the period for redemption;  
 27 and

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

30 (l) If the owner of real property fails to meet the terms of an  
 31 agreement entered into with the county treasurer under subsection (k),  
 32 the county treasurer may terminate the agreement after providing thirty  
 33 (30) days written notice to the owner. If the county treasurer gives  
 34 notice under this subsection, the extended period for redemption  
 35 established under subsection (k) expires thirty (30) days after the date  
 36 of the notice.

37 (m) The period of redemption for a property, which was not offered  
 38 for sale under IC 6-1.1-24-4.7(j), is one hundred twenty (120) days  
 39 after the conclusion of the tax sale at which the property was not  
 40 offered.

41 (n) A county auditor shall not issue or record a tax deed unless the  
 42 following requirements are met not later than one hundred fifty (150)



1 days after the date of the hearing at which a court grants the tax sale  
2 buyer's petition for the tax deed:

- 3 (1) Copies of the court order to issue the tax deed and the sales  
4 disclosure form are filed with the county auditor.
- 5 (2) The recording fees for the tax deed are paid.
- 6 (3) All subsequent or outstanding real property taxes on the  
7 property are paid.

