

SENATE BILL No. 307

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Property tax matters. Provides that the true tax value of commercial real property used for retail purposes that is occupied by the original owner or by a tenant for which the improvement was built shall be determined by the cost approach for the first 10 years of occupancy of the property, less normal depreciation and normal obsolescence under the rules and guidelines of the department of local government finance. Provides that the taxpayer and the assessing official are required to participate in mandatory mediation of an appeal of an assessment of the commercial real property, instead of the preliminary informal meeting process under current law. Requires the county property tax assessment board of appeals (county board) to designate one member of the county board to serve as the mediator for the mediation conference, and specifies certain procedures that apply. Provides that, if a mandatory mediation conference is not held due to the failure of a party or the party's representative to appear, the county board's determination of the assessment may not be appealed to the Indiana board of tax review by the party that failed to appear at the mediation conference. Provides that a taxpayer shall (not may) enter into a written agreement with a redevelopment commission in which the taxpayer waives review of any assessment of the taxpayer's property in an allocation area during the term of any bond or lease obligations that are payable from allocated property taxes, unless the redevelopment commission waives the requirement in writing. Provides that a county fiscal body may adopt an ordinance to provide that the county assessor be reimbursed for legal costs (in addition to other specified costs under current law) incurred by the county assessor in defending an appeal that is uncommon and infrequent in the normal course of defending appeals.

Effective: July 1, 2021; January 1, 2022.

**Buchanan, Boots, Charbonneau,
Buck**

January 11, 2021, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 307

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 6-1.1-4-43.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2022]: **Sec. 43.5. (a) This section applies**
4 **to a real property assessment of commercial real property used for**
5 **retail purposes:**
6 (1) for the 2022 assessment date and assessment dates
7 thereafter; and
8 (2) if the commercial real property is occupied by the original
9 owner or by a tenant for which the improvement was built.
10 (b) This section does not apply to real property described in
11 subsection (a) if the real property is sold:
12 (1) by the original owner for which the improvement was
13 built; and
14 (2) to a subsequent purchaser in an arms length transaction.
15 (c) This subsection applies to a taxpayer that files a notice under
16 IC 6-1.1-15 after December 31, 2021, requesting a review of the
17 assessment of the taxpayer's real property that is subject to this



1 section. In determining the true tax value of real property under
2 this section, true tax value shall be determined by the cost
3 approach for the first ten (10) years of occupancy of the subject
4 property, less normal depreciation and normal obsolescence under
5 the rules and guidelines of the department of local government
6 finance. For purposes of this subsection, the land value shall be
7 assessed separately. The assessed value of the land underlying the
8 improvements assessed under this section may be assessed or
9 challenged based on the market value of comparable land. For
10 purposes of this section, economic and functional obsolescence of
11 the subject property may be determined by application of
12 aggregate market data, but shall not be determined by comparison
13 to any other individual parcels.

14 (d) This subsection applies to a taxpayer that files a notice under
15 IC 6-1.1-15 after December 31, 2021, requesting a review of the
16 assessment of the taxpayer's real property that is subject to this
17 section. A taxpayer must provide to the appropriate county or
18 township assessing official information concerning the actual
19 construction costs for the real property. Notwithstanding
20 IC 6-1.1-15, if a taxpayer does not provide all relevant and
21 reasonably available information concerning the actual
22 construction costs for the real property before the hearing
23 scheduled by the county property tax assessment board of appeals
24 regarding the assessment of the real property, the appeal may not
25 be reviewed until all the information is provided. If a taxpayer has
26 not provided all relevant and reasonably available information
27 concerning the actual construction costs of the property under
28 appeal within ten (10) days prior to the scheduled hearing by the
29 county property tax assessment board of appeals, the appeal is
30 deemed void for that assessment year and may not be refiled or
31 appealed. If a taxpayer does provide the information concerning
32 the actual construction costs for the real property and the
33 construction costs for the real property are greater than the cost
34 values determined by using the cost tables under the rules and
35 guidelines of the department of local government finance, then, for
36 purposes of applying the cost approach under subsection (c), the
37 normal depreciation and normal obsolescence factor as calculated
38 under the rules and guidelines of the department shall be deducted
39 from the actual construction costs rather than the cost values
40 determined by using the cost tables under the rules and guidelines
41 of the department of local government finance.

42 SECTION 2. IC 6-1.1-15-1.2, AS AMENDED BY P.L.121-2019,



1 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JANUARY 1, 2022]: Sec. 1.2. (a) **Except as provided in section 2.3**
 3 **of this chapter**, a county or township official who receives a written
 4 notice under section 1.1 of this chapter shall schedule, at a time during
 5 business hours that is convenient to the taxpayer, a preliminary
 6 informal meeting with the taxpayer in order to resolve the appeal. If the
 7 taxpayer raises a claim regarding a matter that is in the discretion of the
 8 county auditor, the informal meeting must include the county auditor.
 9 At the preliminary informal meeting, in order to facilitate
 10 understanding and the resolution of disputed issues, a county or
 11 township official, the county auditor, if the matter is in the discretion
 12 of the county auditor, and the taxpayer shall exchange the information
 13 that each party is relying on at the time of the preliminary informal
 14 meeting to support the party's respective position on each disputed
 15 issue concerning the assessment or deduction. If additional information
 16 is obtained by the county or township official, the county auditor, or the
 17 taxpayer after the preliminary informal meeting and before the hearing
 18 held by the county board, the party obtaining the information shall
 19 provide the information to the other party. If the county or township
 20 official, the county auditor, or the taxpayer obtains additional
 21 information and provides the information to the other party for the first
 22 time at the hearing held by the county board, the county board, unless
 23 waived by the receiving party, shall continue the hearing until a future
 24 hearing date of the county board so that the receiving party has an
 25 opportunity to review all the information that the offering party is
 26 relying on to support the offering party's positions on the disputed
 27 issues concerning the assessment or deduction.

28 (b) The official shall report on a form prescribed by the department
 29 of local government finance the results of the informal meeting. If the
 30 taxpayer and the official agree on the resolution of all issues in the
 31 appeal, the report shall state the agreed resolution of the matter and be
 32 signed by the official and the taxpayer. If an informal meeting is not
 33 held, or the informal meeting is unsuccessful, the official shall report
 34 those facts on the form. The official shall forward the report on the
 35 informal meeting to the county board.

36 (c) If the county board receives:

- 37 (1) a report on the informal meeting **under subsection (b); or**
 38 (2) a report on a mandatory mediation conference under
 39 **section 2.3(i) of this chapter;**

40 indicating an agreed resolution of the matter, the county board shall
 41 vote to accept or deny the agreed resolution. If the county board accepts
 42 the agreed resolution, the county board shall issue a notification of final



1 assessment determination adopting the agreed resolution and vacating
2 the hearing if scheduled.

3 (d) The county board, upon receipt of a written notice under section
4 1.1 of this chapter, shall hold a hearing on the appeal not later than one
5 hundred eighty (180) days after the filing date of the written notice.
6 The county board shall, by mail, give at least thirty (30) days notice of
7 the date, time, and place fixed for the hearing to the taxpayer, the
8 county or township official with whom the taxpayer filed the written
9 notice, and the county auditor. If the county board has notice that the
10 taxpayer is represented by a third person, any hearing notice shall be
11 mailed to the representative.

12 (e) If good cause is shown, the county board shall grant a request for
13 continuance filed in writing at least ten (10) days before the hearing,
14 and reschedule the hearing under subsection (d).

15 (f) A taxpayer may withdraw an appeal by filing a written request
16 at least ten (10) days before the hearing. The county board shall issue
17 a notification of final assessment determination indicating the
18 withdrawal and no change in the assessment. A withdrawal waives a
19 taxpayer's right to appeal to the Indiana board.

20 (g) The county board shall determine an appeal without a hearing if
21 requested by the taxpayer in writing at least twenty (20) days before the
22 hearing.

23 (h) If a taxpayer appeals the assessment of tangible property under
24 section 1.1 of this chapter, the taxpayer is not required to have an
25 appraisal of the property in order to initiate the appeal or prosecute the
26 appeal.

27 (i) At a hearing under subsection (d), the taxpayer shall have the
28 opportunity to present testimony and evidence regarding the matters on
29 appeal. If the matters on appeal are in the discretion of the county
30 auditor, the county auditor or the county auditor's representative shall
31 attend the hearing. A county or township official, or the county auditor
32 or the county auditor's representative, shall have an opportunity to
33 present testimony and evidence regarding the matters on appeal. The
34 county board may adjourn and continue the hearing to a later date in
35 order to make a physical inspection or consider the evidence presented.

36 (j) The county board shall determine the assessment by motion and
37 majority vote. A county board may, based on the evidence before it,
38 increase an assessment. The county board shall issue a written
39 decision. Written notice of the decision shall be given to the township
40 official, county official, county auditor, and the taxpayer.

41 (k) **Except as provided in section 2.3(j) of this chapter**, if more
42 than one hundred eighty (180) days have passed since the date the



1 notice of appeal was filed, and the county board has not issued a
 2 determination, a taxpayer may initiate any appeal with the Indiana
 3 board of tax review under section 3 of this chapter.

4 (l) The county assessor may assess a penalty of fifty dollars (\$50)
 5 against the taxpayer if the taxpayer or representative fails to appear at
 6 a hearing under subsection (d) and, under subsection (e), the taxpayer's
 7 request for continuance is denied, or the taxpayer's request for
 8 continuance, request for the board to take action without a hearing, or
 9 withdrawal is not timely filed. A taxpayer may appeal the assessment
 10 of the penalty to the Indiana board or directly to the tax court. The
 11 penalty may not be added as an amount owed on the property tax
 12 statement under IC 6-1.1-22 or IC 6-1.1-22.5.

13 SECTION 3. IC 6-1.1-15-1.5, AS ADDED BY P.L.249-2015,
 14 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2021]: Sec. 1.5. (a) As used in this section, "allocation area"
 16 refers to an area that is established under the authority of any of the
 17 following statutes and in which tax increment revenues are collected:

- 18 (1) IC 6-1.1-39.
- 19 (2) IC 8-22-3.5.
- 20 (3) IC 36-7-14.
- 21 (4) IC 36-7-14.5.
- 22 (5) IC 36-7-15.1.
- 23 (6) IC 36-7-30.
- 24 (7) IC 36-7-30.5.
- 25 (8) IC 36-7-32.

26 (b) A taxpayer ~~may~~ **shall** enter into a written agreement with an
 27 entity that is authorized to establish an allocation area in which the
 28 taxpayer waives review of any assessment of the taxpayer's tangible
 29 property that is located in an allocation area for an assessment date that
 30 occurs during the term of any specified bond or lease obligations that
 31 are payable from property taxes in accordance with an allocation
 32 provision for the allocation area and any applicable statute, ordinance,
 33 or resolution, **unless the entity that established the allocation area**
 34 **waives the requirement in writing.** An agreement described in this
 35 subsection may precede the establishment of the allocation area or the
 36 determination to issue bonds or enter into leases payable from the
 37 allocated property taxes.

38 (c) If a taxpayer enters into a written agreement described in
 39 subsection (b) with an entity that is authorized to establish an allocation
 40 area with respect to tangible property located in a particular allocation
 41 area, the taxpayer may not:

- 42 (1) obtain a review by the county board of a county or township



- 1 official's assessment of the tangible property;
 2 (2) obtain a review by the Indiana board of the county or township
 3 official's assessment of the tangible property; or
 4 (3) obtain judicial review of the county or township official's
 5 assessment of the tangible property;

6 for an assessment date that occurs during the term of any specified
 7 bond or lease obligations that are payable from property taxes in
 8 accordance with an allocation provision for the allocation area and any
 9 applicable statute, ordinance, or resolution.

10 SECTION 4. IC 6-1.1-15-2.3 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JANUARY 1, 2022]: **Sec. 2.3. (a) This section applies**
 13 **only to a notice of appeal under section 1.1 of this chapter with**
 14 **respect to an assessment of a taxpayer's commercial real property**
 15 **that is subject to IC 6-1.1-4-43.5.**

16 (b) **Instead of a preliminary informal meeting under section**
 17 **1.2(a) of this chapter, the taxpayer and the county or township**
 18 **assessing official (or their representatives) shall attend and**
 19 **participate in mandatory mediation as set forth in this section.**

20 (c) **The county board shall set the time and place for the**
 21 **mandatory mediation conference and send notice to the taxpayer**
 22 **and the assessing official and the attorneys of record at least thirty**
 23 **(30) days before the date set for the mediation conference.**

24 (d) **The county board shall designate one (1) member of the**
 25 **county board to serve as the mediator for purposes of a mandatory**
 26 **mediation conference under this section.**

27 (e) **At least seven (7) days before the mandatory mediation**
 28 **conference date, the taxpayer and the assessing official shall submit**
 29 **to the mediator a confidential statement setting forth the party's**
 30 **factual or legal position on the issues presented by the notice of**
 31 **appeal, including the information that each party is relying on to**
 32 **support their respective position concerning the assessment.**

33 (f) **The following provisions apply to a mandatory mediation**
 34 **conference conducted under this section:**

- 35 (1) **IC 4-21.5-3.5-17 (individuals present at mediation).**
 36 (2) **IC 4-21.5-3.5-18(c) through IC 4-21.5-3.5-18(e)**
 37 **(confidential statements).**
 38 (3) **IC 4-21.5-3.5-19 (mediator meetings with parties).**
 39 (4) **IC 4-21.5-3.5-24 (rules of evidence do not apply).**
 40 (5) **IC 4-21.5-3.5-26 (mediation regarded as settlement**
 41 **negotiation).**
 42 (6) **IC 4-21.5-3.5-27 (confidential and privileged nature of**



1 mediation).

2 (g) At a mandatory mediation conference, the mediator shall
3 facilitate the negotiation of an agreed settlement of the assessed
4 value of the commercial real property. However, the mediator has
5 no authority to render a determination on the notice of appeal.

6 (h) The mediator shall report on a form prescribed by the
7 department of local government finance the results of the
8 mandatory mediation conference. If the taxpayer and the assessing
9 official agree on the resolution of all issues in the appeal, the report
10 shall state the agreed resolution of the matter and be signed by the
11 assessing official and the taxpayer. If a mandatory mediation
12 conference is not held due to the failure of a party or the party's
13 representative to appear at the mediation conference, the mediator
14 shall report that fact on the form.

15 (i) The mediator shall forward the report on the mandatory
16 mediation conference to the county board.

17 (j) If a mandatory mediation conference is not held under this
18 chapter due to the failure of a party or the party's representative
19 to appear at the mediation conference, the county board's
20 determination of the assessment under section 1.2 of this chapter
21 may not be appealed to the Indiana board of tax review by the
22 party that failed to appear at the mediation conference.

23 SECTION 5. IC 6-1.1-15-3, AS AMENDED BY P.L.154-2020,
24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JANUARY 1, 2022]: Sec. 3. (a) A taxpayer may obtain a review by the
26 Indiana board of:

- 27 (1) a county board's action with respect to a claim under section
28 1.1 of this chapter, **except as otherwise provided in section**
29 **2.3(j) of this chapter;** or
30 (2) a denial by the county auditor, the county assessor, or the
31 county treasurer of a claim for refund under IC 6-1.1-9-10(c)(2)
32 that is appealed to the Indiana board as authorized in
33 IC 6-1.1-26-2.1(d)(2).

34 (b) The county assessor is the party to a review under subsection
35 (a)(1) to defend the determination of the county board. The county
36 auditor may appear as an additional party to the review if the
37 determination concerns a matter that is in the discretion of the county
38 auditor. At the time the notice of that determination is given to the
39 taxpayer, the taxpayer shall also be informed in writing of:

- 40 (1) the taxpayer's opportunity for review under subsection (a)(1);
41 and
42 (2) the procedures the taxpayer must follow in order to obtain



1 review under this section.

2 (c) A county assessor who dissents from the determination of the
3 county board may obtain a review by the Indiana board, **except as**
4 **otherwise provided in section 2.3(j) of this chapter.** A county auditor
5 who dissents from the determination of the county board concerning a
6 matter that is in the discretion of the county auditor may obtain a
7 review by the Indiana board.

8 (d) In order to obtain a review by the Indiana board under
9 subsection (a)(1), the party must, not later than forty-five (45) days
10 after the date of the notice given to the party or parties of the
11 determination of the county board:

- 12 (1) file a petition for review with the Indiana board; and
13 (2) mail a copy of the petition to the other party.

14 (e) The Indiana board shall prescribe the form of the petition for
15 review under this chapter. The Indiana board shall issue instructions for
16 completion of the form. The form and the instructions must be clear,
17 simple, and understandable to the average individual. A petition for
18 review of such a determination must be made on the form prescribed
19 by the Indiana board. The form must require the petitioner to specify
20 the reasons why the petitioner believes that the determination by the
21 county board is erroneous.

22 (f) If the action for which a taxpayer seeks review under this section
23 is the assessment of tangible property, the taxpayer is not required to
24 have an appraisal of the property in order to do the following:

- 25 (1) Initiate the review.
26 (2) Prosecute the review.

27 (g) If an owner petitions the Indiana board under IC 6-1.1-11-7(d),
28 the Indiana board is authorized to approve or disapprove an exemption
29 application:

- 30 (1) previously submitted to a county board under IC 6-1.1-11-6;
31 and
32 (2) that is not approved or disapproved by the county board within
33 one hundred eighty (180) days after the owner filed the
34 application for exemption under IC 6-1.1-11.

35 The county assessor is a party to a petition to the Indiana board under
36 IC 6-1.1-11-7(d).

37 (h) This subsection applies only to the review by the Indiana board
38 of a denial of a refund claim described in subsection (a)(2). The county
39 assessor is the party to a review under subsection (a)(2) to defend the
40 denial of the refund under IC 6-1.1-26-2.1. In order to obtain a review
41 by the Indiana board under subsection (a)(2), the taxpayer must, within
42 forty-five (45) days of the notice of denial under IC 6-1.1-26-2.1(d):



- 1 (1) file a petition for review with the Indiana board; and
2 (2) mail a copy of the petition to the county auditor.
- 3 SECTION 6. IC 6-1.1-15-10.7, AS ADDED BY P.L.180-2016,
4 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JANUARY 1, 2022]: Sec. 10.7. (a) The county fiscal body may adopt
6 an ordinance to provide that the county assessor be reimbursed for
7 certain costs incurred by the county assessor in defending an appeal
8 under this chapter that is uncommon and infrequent in the normal
9 course of defending appeals under this chapter. Costs include appraisal,
10 **legal**, and expert witness fees incurred in defending an appeal.
- 11 (b) The ordinance must specify:
- 12 (1) the appeal or appeals and why they are uncommon and
13 infrequent;
14 (2) a detailed list of expenses incurred by fund and by parcel
15 number; and
16 (3) that the county auditor will deduct the expenses listed in the
17 ordinance from property tax receipts collected in the taxing
18 district in which the parcel is located before apportioning receipts
19 to taxing units for the next semiannual settlement under
20 IC 6-1.1-27.
- 21 (c) Property tax receipts that are collected under this section must
22 be deposited in the county fund that incurred the initial expense.
- 23 (d) Expenses for an appeal that are deducted from a civil taxing
24 unit's property tax revenue under this section are not considered to be
25 part of a payment of a refund resulting from an appeal for purposes of
26 a maximum permissible property tax levy appeal under
27 IC 6-1.1-18.5-16.

