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February 14, 2017

### **SENATE BILL No. 350**

DIGEST OF SB 350 (Updated February 9, 2017 11:18 am - DI 84)

Citations Affected: IC 6-1.1.

**Synopsis:** Property tax assessment. Provides, with limited exceptions, that: (1) the only factor permitted to be used in changing the assessed value of most real property from year to year is the annual adjustment factor; and (2) an assessing official may not change the real property's underlying parcel characteristics (including age, grade, or condition of the real property) until the real property has been reassessed under the county's reassessment plan, there is a change in an objective factor or feature relating to a property, or there is a need to correct an error. Provides a process that must be followed by an assessing official who wishes to apply an exception. Permits a taxpayer to name an attorney in fact who may take the place of the taxpayer under the property tax laws, including appeals. Allows a taxpayer alone to stipulate to an assessed value determined by an Indiana registered appraiser. Provides that the office of the assessing official and taxpayer each pay 50% of the appraisal costs. Makes conforming changes.

Effective: July 1, 2017.

# Eckerty

January 10, 2017, read first time and referred to Committee on Appropriations. February 13, 2017, amended, reported favorably — Do Pass.



February 14, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## **SENATE BILL No. 350**

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 6-1.1-4-4.4, AS AMENDED BY P.L.245-2015,
2	SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3	JULY 1, 2017]: Sec. 4.4. (a) This section applies to an assessment
4	under section 4.2 or 4.5 of this chapter or another any other law.
5	(b) This section does not prohibit a change in an assessment:
6	(1) that is directly applicable to any change in an objective
7	factor or feature relating to a property, including an
8	improvement or enlargement of the property; or
9	(2) that results from the correction of an error or omission,
10	including the correction of a mathematical error.
11	(b) (c) An assessing official may not change the real property's
12	underlying parcel characteristics, including age, grade, or
13	condition of the real property, until the real property has been
14	reassessed under the county's reassessment plan under section 4.2
15	of this chapter. If the assessor assessing official changes the



1 underlying parcel characteristics, including age, grade, or condition, of 2 a property, from the previous year's assessment date, the assessor 3 assessing official shall document: 4 (1) each change; and 5 (2) the reason that each change was made. In any appeal of the assessment, the assessor assessing official has the 6 7 burden of proving that each change was valid. 8 SECTION 2. IC 6-1.1-4-4.5, AS AMENDED BY P.L.180-2016, 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE 10 JULY 1, 2017]: Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting 11 12 the assessed value of real property to account for changes in value in 13 those years since a reassessment under section 4 or 4.2 of this chapter 14 for the property last took effect. 15 (b) Subject to subsection (e) and section 4.9 of this chapter, the 16 system must be applied to adjust assessed values beginning with the 17 2006 assessment date and each year thereafter that is not a year in 18 which a reassessment under section 4 or 4.2 of this chapter for the 19 property becomes effective. 20 (c) The rules adopted under subsection (a) must include the 21 following characteristics in the system: 22 (1) Promote uniform and equal assessment of real property within 23 and across classifications. 24 (2) Require that assessing officials: 25 (A) reevaluate the factors that affect value; 26 (B) express the interactions of those factors mathematically; 27 (C) use mass appraisal techniques to estimate updated property values within statistical measures of accuracy; and 28 29 (D) provide notice to taxpayers of an assessment increase that 30 results from the application of annual adjustments. 31 (3) Prescribe procedures that permit the application of the 32 adjustment percentages in an efficient manner by assessing 33 officials. 34 (d) The department of local government finance must review and 35 certify each annual adjustment determined under this section. 36 (e) In making the annual determination of the base rate to satisfy the 37 requirement for an annual adjustment under subsection (c) for the 38 January 1, 2016, assessment date and each assessment date thereafter, 39 the department of local government finance shall determine the base 40 rate using the methodology reflected in Table 2-18 of Book 1, Chapter 41 2 of the department of local government finance's Real Property 42 Assessment Guidelines (as in effect on January 1, 2005), except that

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1	the department shall adjust the methodology as follows:
2	(1) Use a six (6) year rolling average adjusted under subdivision
3	(3) instead of a four (4) year rolling average.
4	(2) Use the data from the six (6) most recent years preceding the
5	year in which the assessment date occurs for which data is
6	available, before one (1) of those six (6) years is eliminated under
7	subdivision (3) when determining the rolling average.
8	(3) Eliminate in the calculation of the rolling average the year
9	among the six (6) years for which the highest market value in use
10	of agricultural land is determined.
11	(4) After determining a preliminary base rate that would apply for
12	the assessment date without applying the adjustment under this
13	subdivision, the department of local government finance shall
14	adjust the preliminary base rate as follows:
15	(A) If the preliminary base rate for the assessment date would
16	be at least ten percent (10%) greater than the final base rate
17	determined for the preceding assessment date, a capitalization
18	rate of eight percent (8%) shall be used to determine the final
19	base rate.
20 21	(B) If the preliminary base rate for the assessment date would be at least tan percent $(100\%)$ less than the final base rate
21	be at least ten percent (10%) less than the final base rate determined for the preceding assessment date, a capitalization
22	rate of six percent (6%) shall be used to determine the final
23 24	base rate.
25	(C) If neither clause (A) nor clause (B) applies, a capitalization
26	rate of seven percent (7%) shall be used to determine the final
27	base rate.
28	(D) In the case of a market value in use for a year that is used
29	in the calculation of the six (6) year rolling average under
30	subdivision (1) for purposes of determining the base rate for
31	the assessment date:
32	(i) that market value in use shall be recalculated by using the
33	capitalization rate determined under clauses (A) through (C)
34	for the calculation of the base rate for the assessment date;
35	and
36	(ii) the market value in use recalculated under item (i) shall
37	be used in the calculation of the six $(6)$ year rolling average
38	under subdivision (1).
39	(f) For assessment dates after December 31, 2009, An adjustment
40	in the assessed value of real property under this section shall be based
41	on the estimated true tax value of the property on the assessment date
42	that is the basis for taxes payable on that real property.

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1 SECTION 3. IC 6-1.1-4-4.9 IS ADDED TO THE INDIANA CODE 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 3 1, 2017]: Sec. 4.9. (a) This section does not apply to real property 4 that is valued using the income capitalization approach. 5 (b) This section does not prohibit a change in an assessment: 6 (1) that is directly applicable to any change in an objective 7 factor or feature relating to a property, including an 8 improvement or enlargement of the property; or 9 (2) that results from the correction of an error or omission, 10 including the correction of a mathematical error. 11 (c) Except as provided in subsection (b), to determine the 12 assessed value of the real property, the annual adjustment under 13 section 4.5 of this chapter must be the only factor applied to the 14 assessed value of the real property for the prior tax year. The 15 assessment to be used for the prior tax year is the original 16 assessment for that prior tax year or, if applicable, the assessment 17 for that prior tax year: 18 (1) as last corrected by an assessing official; 19 (2) as stipulated or settled by the taxpayer and the assessing 20 official; or 21 (3) as determined by the reviewing authority, if the assessed 22 value of the real property is determined in a review or appeal 23 and the review or appeal is pending on or after July 1, 2017. 24 (d) An assessing official shall apply this section without the 25 initiation of a review by the taxpayer. An assessing official who 26 believes that an exception set forth in subsection (b) applies to a 27 particular parcel shall provide to the county board and the 28 taxpayer a written notice with a detailed explanation of why the 29 exception applies and the assessed value that will result from its 30 application. The county board, on its own initiative, shall review 31 the question of whether the exception applies to the parcel and 32 provide to the assessing official and the taxpayer a written 33 determination not later than ten (10) business days after the date 34 of the assessing official's notice. 35 (e) If the county board finds or a taxpayer notifies the county 36 board that the taxpayer believes that an assessing official: 37 (1) applied an exception without making a written request; or 38 (2) made a request that is not supported by the facts or that is 39 not based on an opinion of the county assessor's office's legal 40 counsel; 41 the county board shall immediately notify the department of its 42 findings or the notice in the manner prescribed by the department.

1	SECTION 4. IC 6-1.1-15-2.5, AS AMENDED BY P.L.149-2016,
2	SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3	JULY 1, 2017]: Sec. 2.5. (a) This section applies to a notice of review
4	filed by a taxpayer under section 1 of this chapter with respect to the
5	assessment of the taxpayer's tangible property.
6	(b) Instead of a hearing before the county board, a taxpayer and a
7	township or county official may enter into an agreement in which both
8	parties: file with the assessing official:
9	(1) agree to waive, a waiver of a determination by the county
10	board and submit the dispute directly to the Indiana board; or
11	(2) stipulate a stipulation to the assessed value of the tangible
12	property in dispute as determined by an independent appraisal
13	under terms and conditions in subsection (e).
14	A taxpayer and a township or county an assessing official may still
15	enter into an agreement under section 1(i) 1(h) of this chapter and not
16	be subject to the requirements of this section.
17	(c) An agreement under this section A taxpayer may not be entered
18	into waive a determination or stipulate to an assessed value under
19	subsection (b) more than one hundred twenty (120) days after the date
20	of the notice under subsection (a).
21	(d) The township or county assessing official shall immediately
22	forward an agreement entered into a waiver or stipulation filed under
23	this section to the county board.
24	(e) An agreement entered into A stipulation by a taxpayer and a
25	township or county official under subsection (b)(2) must include the
26	following provisions:
27	(1) The county board shall select three (3) Indiana registered
28	appraisers as potential appraisers to conduct an independent
29	appraisal. <del>under the agreement.</del>
30	(2) Not later than fifteen (15) days after the county board's
31	selection of potential appraisers, the:
32	(A) taxpayer; and
33	(B) township or county assessing official;
34	may each strike one (1) appraiser from the list of potential
35	appraisers by providing written notice to the county board of the
36	name of the appraiser to strike from the list.
37	(3) Not later than sixty $(60)$ days after the date of the agreement,
38	an appraisal shall be conducted by the Indiana registered
39	appraiser who is:
40	(A) not struck from the list of potential appraisers, if two (2)
41	potential appraisers are struck from the list under subdivision
42	(2); or



1	(B) selected by the county board from the list of potential
2	appraisers, if fewer than two (2) potential appraisers are struck
3 4	from the list under subdivision (2).
	(4) The appraisal conducted under subdivision (3) shall be:
5	(A) prepared in accordance with usual and customary
6	professional standards for an Indiana registered appraiser;
7	(B) notarized; and
8	(C) filed with the county board not later than three (3) days
9	after its completion.
10	(5) The taxpayer and the township or county official stipulate for
11	purposes of review by the county board stipulates that the correct
12	assessed value of the tangible property in dispute is the appraised
13	value of the tangible property as determined by the appraisal
14	conducted under subdivision (3).
15	(6) The taxpayer and the township or county assessing official
16	retain waive the right to initiate a proceeding for review of a
17	stipulated determination entered by the county board under
18	subsection (g) before the Indiana board under section 3 of this
19	chapter.
20	(7) The taxpayer and the office of the assessing official shall
21	each pay fifty percent (50%) of the cost of the appraisal.
22	(7) (8) Any other provision the department of local government
23	finance considers appropriate.
24	(f) The department of local government finance shall prescribe a
25	standard form agreement that must be used for purposes of this section.
26	The department shall require the form agreement to be notarized.
27	(g) Upon receipt of an independent appraisal conducted under this
28	section, the county board shall enter a stipulated determination of
29	assessed value
30	(1) based on the agreement of the parties under subsection $(b)(2)$ ;
31	and
32	(2) equal to the appraised value of the property as determined by
33	the independent appraisal. The assessed value is binding on the
34	taxpayer, the assessing official, and the county board for the
35	assessment dates under review.
36	(h) A taxpayer or a township or county official may initiate a
37	proceeding for review of a stipulated determination entered by a county
38	board under this section before the Indiana board as required by section
39	<del>3 of this chapter.</del>
40	SECTION 5. IC 6-1.1-15-3, AS AMENDED BY P.L.196-2016,
41	SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42	JULY 1, 2017]: Sec. 3. (a) Except as provided in section 2.5 of this

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1 chapter, a taxpayer may obtain a review by the Indiana board of a 2 county board's action with respect to the following: 3 (1) The assessment of that taxpayer's tangible property if the county board's action requires the giving of notice to the taxpayer. 4 5 (2) The exemption of that taxpayer's tangible property if the 6 taxpayer receives a notice of an exemption determination by the 7 county board under IC 6-1.1-11-7. 8 (b) The county assessor is the party to the review under this section 9 to defend the determination of the county board. At the time the notice of that determination is given to the taxpayer, the taxpayer shall also be 10 informed in writing of: 11 12 (1) the taxpayer's opportunity for review under this section; and 13 (2) the procedures the taxpayer must follow in order to obtain 14 review under this section. 15 (c) A county assessor who dissents from the determination of an 16 assessment or an exemption by the county board may obtain a review of the assessment or the exemption by the Indiana board. 17 18 (d) In order to obtain a review by the Indiana board under this 19 section, the party must, not later than forty-five (45) days after the date 20 of the notice given to the party or parties of the determination of the 21 county board: 22 (1) file a petition for review with the Indiana board; and 23 (2) mail a copy of the petition to the other party. 24 (e) The Indiana board shall prescribe the form of the petition for 25 review of an assessment determination or an exemption by the county 26 board. The Indiana board shall issue instructions for completion of the 27 form. The form and the instructions must be clear, simple, and 28 understandable to the average individual. A petition for review of such 29 a determination must be made on the form prescribed by the Indiana 30 board. The form must require the petitioner to specify the reasons why 31 the petitioner believes that the assessment determination or the 32 exemption determination by the county board is erroneous. 33 (f) If the action for which a taxpayer seeks review under this section 34 is the assessment of tangible property, the taxpayer is not required to 35 have an appraisal of the property in order to do the following: 36 (1) Initiate the review. 37 (2) Prosecute the review. 38 (g) If an owner petitions the Indiana board under IC 6-1.1-11-7(d), 39 the Indiana board is authorized to approve or disapprove an exemption 40 application: 41 (1) previously submitted to a county board under IC 6-1.1-11-6; 42 and



1	(2) that is not approved or disapproved by the county board within
2 3	one hundred eighty (180) days after the owner filed the
	application for exemption under IC 6-1.1-11.
4	The county assessor is a party to a petition to the Indiana board under
5	IC 6-1.1-11-7(d).
6	SECTION 6. IC 6-1.1-15-17.2, AS AMENDED BY P.L.97-2014,
7	SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8	JULY 1, 2017]: Sec. 17.2. (a) Except as provided in subsection (d), this
9	section applies to any review or appeal of an assessment under this
10	chapter if the assessment that is the subject of the review or appeal is
11	an increase of more than five percent $(5\%)$ the amount permitted by
12	IC 6-1.1-4-4.9 over the assessment for the same property for the prior
13	tax year. In calculating the change in the assessment for purposes of
14	this section, the assessment to be used for the prior tax year is the
15	original assessment for that prior tax year or, if applicable, the
16	assessment for that prior tax year:
17	(1) as last corrected by an assessing official;
18	(2) as stipulated or settled by the taxpayer and the assessing
19	official; or
20	(3) as determined by the reviewing authority.
21	(b) Under this section, the county assessor or township assessor
22	making the assessment has the burden of proving that the assessment
23	is correct in any review or appeal under this chapter and in any appeals
24	taken to the Indiana board of tax review or to the Indiana tax court. If
25	a county assessor or township assessor fails to meet the burden of proof
26	under this section, the taxpayer may introduce evidence to prove the
27	correct assessment. If neither the assessing official nor the taxpayer
28	meets the burden of proof under this section, the assessment reverts to
29	the assessment for the prior tax year, which is the original assessment
30	for that prior tax year or, if applicable, the assessment for that prior tax
31	year:
32	(1) as last corrected by an assessing official;
33	(2) as stipulated or settled by the taxpayer and the assessing
34	official; or
35	(3) as determined by the reviewing authority.
36	(c) This section does not apply to an assessment if the assessment
37	that is the subject of the review or appeal is based on:
38	(1) structural improvements;
39	(2) zoning; or
40	(2) Johnsy, or (3) uses;
41	that were not considered in the assessment for the prior tax year.
42	(d) This subsection applies to real property for which the gross
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1 assessed value of the real property was reduced by the assessing 2 official or reviewing authority in an appeal conducted under 3 IC 6-1.1-15. However, this subsection does not apply for an assessment 4 date if the real property was valued using the income capitalization 5 approach in the appeal. If the this chapter. IC 6-1.1-4-4.9 applies to 6 the determination of the gross assessed value of real property for an 7 assessment date that follows the latest assessment date that was the 8 subject of an appeal described in this subsection. is increased above the 9 gross assessed value of the real property for the latest assessment date 10 covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment 11 12 has the burden of proving that the assessment is correct. 13 (e) This section, as amended in the 2014 regular session of the 14 Indiana general assembly, applies: 15 (1) to all appeals or reviews pending on the effective date of the 16 amendments made to this section in the 2014 regular session of 17 the Indiana general assembly; and 18 (2) to all appeals or reviews filed thereafter. 19 SECTION 7. IC 6-1.1-31-14 IS ADDED TO THE INDIANA CODE 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 21 1, 2017]: Sec. 14. (a) The definitions in IC 30-5-2 apply to this 22 section. 23 (b) For purposes of this article, an attorney in fact acting under 24 a power of attorney executed by a taxpayer under IC 30-5 is not 25 considered a representative of the taxpayer. (c) IC 30-5: 26 27 (1) applies to any action taken under this article by an 28 attorney in fact; and 29 (2) governs the reliance of an assessing official, the department, or the Indiana board upon any action of the 30 31 attorney in fact. 32 (d) The department may not restrict the ability of an attorney 33 in fact to exercise a power granted to the attorney in fact by a 34 power of attorney executed under IC 30-5. 35 SECTION 8. IC 6-1.1-35.7-4, AS ADDED BY P.L.134-2014, 36 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE 37 JULY 1, 2017]: Sec. 4. (a) A township assessor, a county assessor, an 38 employee of the township assessor or county assessor, or an appraiser: 39 (1) must be competent to perform a particular assessment; 40 (2) must acquire the necessary competency to perform the 41 assessment; or 42 (3) shall contract with an appraiser who demonstrates competency



to do the assessment.

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(b) The department may revoke the certification of a township assessor, a county assessor, an employee of the township assessor or county assessor, or an appraiser under 50 IAC 15 for gross incompetence in the performance of an assessment or assessment appeal under IC 6-1.1-15.

7 (c) An individual whose certification is revoked by the department 8 under subsection (b) may appeal the department's decision to the 9 certification appeal board established under subsection (d). A decision 10 of the certification appeal board may be appealed to the tax court in the 11 same manner that a final determination of the department may be 12 appealed under IC 33-26.

13 (d) The certification appeal board is established for the sole purpose
14 of conducting appeals under this section. The board consists of the
15 following seven (7) members:

15	Ionowing seven (7) memoers.
16	(1) Two (2) representatives of the department appointed by the
17	commissioner of the department.
18	(2) Two (2) individuals appointed by the governor. The
19	individuals must be township or county assessors.
20	(3) Two (2) individuals appointed by the governor. The
21	individuals must be licensed appraisers.
22	(4) One (1) individual appointed by the governor. The individual
23	must be a resident of Indiana.
24	The commissioner of the department shall designate a member
25	appointed under subdivision (1) as the chairperson of the board. Not
26	more than four (4) members of the board may be members of the same
27	political party. Each member of the board serves at the pleasure of the
28	appointing authority.
29	(e) The certification appeal board shall meet as often as is necessary
30	to properly perform its duties. Each member of the board is entitled to
31	the following:
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32 (1) The salary per diem provided under IC 4-10-11-2.1(b).

33 (2) Reimbursement for traveling expenses as provided under
34 IC 4-13-1-4.

35 (3) Other expenses actually incurred in connection with the
36 member's duties as provided in the state policies and procedures
37 established by the Indiana department of administration and
38 approved by the budget agency.



#### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 350, 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:

Delete pages 5 through 10.

Page 11, delete lines 1 through 33.

Page 14, delete lines 39 through 42.

Page 15, delete lines 1 through 34.

Page 17, delete lines 6 through 42.

Page 18, delete lines 1 through 3.

Page 18, delete lines 20 through 42.

Page 19, delete lines 1 through 34.

Page 20, delete lines 7 through 28.

Page 20, line 29, reset in roman "(c)".

Page 20, line 29, delete "(d)".

Page 20, line 31, reset in roman "(d).".

Page 20, line 31, delete "(e).".

Page 20, line 32, delete "or a decision by the".

Page 20, line 33, delete "commissioner under subsection (c)".

Page 20, line 36, reset in roman "(d)".

Page 20, line 36, delete "(e)".

Page 21, line 10, reset in roman "(e)".

Page 21, line 10, delete "(f)".

Page 21, delete lines 20 through 42.

Delete page 22.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 350 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 12, Nays 0.

