SENATE BILL No. 409

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12-37; IC 32-21-4-1; IC 36-7-9-26.

Synopsis: Recording notices concerning taxes and property. Requires a county auditor to place a notation on the tax duplicate when the county auditor determines that property is no longer eligible for a standard deduction and indicates that a bona fide purchaser of the property is not liable for taxes and penalties that accrue before the notation is made as a result of the removal of the deduction. Indicates that certain defects in a lease recorded with the county recorder do not invalidate the effect of recording the lease. Requires an enforcement authority to record certain orders related to sealing, repairing, or rehabilitating an unsafe building.

Effective: July 1, 2014.

Zakas

January 14, 2014, read first time and referred to Committee on Civil Law.



Introduced

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.

SENATE BILL No. 409

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1	SECTION 1. IC 6-1.1-12-37, AS AMENDED BY P.L.288-2013,
2	SECTION 3, AND AS AMENDED BY P.L.203-2013, SECTION 4, IS
3	CORRECTED AND AMENDED TO READ AS FOLLOWS
4	[EFFECTIVE JULY 1, 2014]: Sec. 37. (a) The following definitions
5	apply throughout this section:
6	(1) "Dwelling" means any of the following:
7	(A) Residential real property improvements that an individual
8	uses as the individual's residence, including a house or garage.
9	(B) A mobile home that is not assessed as real property that an
10	individual uses as the individual's residence.
11	(C) A manufactured home that is not assessed as real property
12	that an individual uses as the individual's residence.
13	(2) "Homestead" means an individual's principal place of
14	residence:
15	(A) that is located in Indiana;
16	(B) that:



1	(i) the individual owns;
2	(ii) the individual is buying under a contract; recorded in the
3	county recorder's office, that provides that the individual is
4	to pay the property taxes on the residence;
5	(iii) the individual is entitled to occupy as a
6	tenant-stockholder (as defined in 26 U.S.C. 216) of a
7	cooperative housing corporation (as defined in 26 U.S.C.
8	216); or
9	(iv) is a residence described in section 17.9 of this chapter
10	that is owned by a trust if the individual is an individual
11	described in section 17.9 of this chapter; and
12	(C) that consists of a dwelling and the real estate, not
13	exceeding one (1) acre, that immediately surrounds that
14	dwelling.
15	Except as provided in subsection (k), the term does not include
16	property owned by a corporation, partnership, limited liability
17	company, or other entity not described in this subdivision.
18	(b) Each year a homestead is eligible for a standard deduction from
19	the assessed value of the homestead for an assessment date. <i>Except as</i>
20	provided in subsection (p), the deduction provided by this section
21	applies to property taxes first due and payable for an assessment date
22	only if an individual has an interest in the homestead described in
23	subsection (a)(2)(B) on:
24	(1) the assessment date; or
25	(2) any date in the same year after an assessment date that a
26	statement is filed under subsection (e) or section 44 of this
27	chapter, if the property consists of real property.
28	Subject to subsection (c), the auditor of the county shall record and
29	make the deduction for the individual or entity qualifying for the
30	deduction.
31	(c) Except as provided in section 40.5 of this chapter, the total
32	amount of the deduction that a person may receive under this section
33	for a particular year is the lesser of:
34	(1) sixty percent (60%) of the assessed value of the real property,
35	mobile home not assessed as real property, or manufactured home
36	not assessed as real property; or
37	(2) forty-five thousand dollars (\$45,000).
38	(d) A person who has sold real property, a mobile home not assessed
39	as real property, or a manufactured home not assessed as real property
40	to another person under a contract that provides that the contract buyer
41	is to pay the property taxes on the real property, mobile home, or
42	manufactured home may not claim the deduction provided under this

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



1	(iii) If the individual does not have a driver's license or a
2	state identification card, the last five (5) digits of a control
3	number that is on a document issued to the individual by the
4	federal government and determined by the department of
5	local government finance to be acceptable.
6	If a form or statement provided to the county auditor under this section,
7	IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or
8	part or all of the Social Security number of a party or other number
9	described in subdivision (4)(B) of a party, the telephone number and
10	the Social Security number or other number described in subdivision
11	(4)(B) included are confidential. The statement may be filed in person
12	or by mail. If the statement is mailed, the mailing must be postmarked
12	on or before the last day for filing. The statement applies for that first
13	year and any succeeding year for which the deduction is allowed. With
15	respect to real property, the statement must be completed and dated in
16	the calendar year for which the person desires to obtain the deduction
17	and filed with the county auditor on or before January 5 of the
18	immediately succeeding calendar year. With respect to a mobile home
19	that is not assessed as real property, the person must file the statement
20	during the twelve (12) months before March 31 of the year for which
20	the person desires to obtain the deduction.
22	(f) If an individual who is receiving the deduction provided by this
23	section or who otherwise qualifies property for a deduction under this
23	section:
25	(1) changes the use of the individual's property so that part or all
26	of the property no longer qualifies for the deduction under this
20	section; or
28	(2) is no longer eligible for a deduction under this section on
29	another parcel of property because:
30	(A) the individual would otherwise receive the benefit of more
31	than one (1) deduction under this chapter; or
32	(B) the individual maintains the individual's principal place of
33	residence with another individual who receives a deduction
34	under this section;
35	the individual must file a certified statement with the auditor of the
36	county, notifying the auditor of the change of use, not more than sixty
30 37	(60) days after the date of that change. An individual who fails to file
38	the statement required by this subsection is liable for any additional
38 39	taxes that would have been due on the property if the individual had
39 40	filed the statement as required by this subsection plus a civil penalty
40 41	equal to ten percent (10%) of the additional taxes due. The civil penalty
42	imposed under this subsection is in addition to any interest and
-T <i>L</i>	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.

9 (g) The department of local government finance shall adopt rules or 10 guidelines concerning the application for a deduction under this 11 section.

12 (h) This subsection does not apply to property in the first year for 13 which a deduction is claimed under this section if the sole reason that 14 a deduction is claimed on other property is that the individual or 15 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 16 17 filed under this section or, if the application is for a homestead that is 18 assessed as personal property, on March 1 in the immediately 19 preceding year and the individual or married couple is moving the 20 individual's or married couple's principal residence to the property that 21 is the subject of the application. Except as provided in subsection (n), 22 the county auditor may not grant an individual or a married couple a 23 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.
(i) A county auditor may require an individual to provide evidence

(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



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1 auditors to develop procedures to determine whether a property owner 2 that is claiming a standard deduction or homestead credit is not eligible 3 for the standard deduction or homestead credit because the property 4 owner's principal place of residence is outside Indiana. 5 (k) As used in this section, "homestead" includes property that 6 satisfies each of the following requirements: 7 (1) The property is located in Indiana and consists of a dwelling 8 and the real estate, not exceeding one (1) acre, that immediately 9 surrounds that dwelling. 10 (2) The property is the principal place of residence of an 11 individual. 12 (3) The property is owned by an entity that is not described in subsection (a)(2)(B). 13 (4) The individual residing on the property is a shareholder, 14 15 partner, or member of the entity that owns the property. 16 (5) The property was eligible for the standard deduction under this section on March 1, 2009. 17 18 (1) If a county auditor terminates a deduction for property described 19 in subsection (k) with respect to property taxes that are: 20 (1) imposed for an assessment date in 2009; and 21 (2) first due and payable in 2010; 22 on the grounds that the property is not owned by an entity described in 23 subsection (a)(2)(B), the county auditor shall reinstate the deduction if 24 the taxpayer provides proof that the property is eligible for the 25 deduction in accordance with subsection (k) and that the individual residing on the property is not claiming the deduction for any other 26 27 property. 28 (m) For assessments assessment dates after 2009, the term 29 "homestead" includes: 30 (1) a deck or patio; 31 (2) a gazebo; or 32 (3) another residential yard structure, as defined in rules adopted 33 by the department of local government finance (other than a 34 swimming pool); 35 that is assessed as real property and attached to the dwelling. (n) A county auditor shall grant an individual a deduction under this 36 37 section regardless of whether the individual and the individual's spouse 38 claim a deduction on two (2) different applications and each 39 application claims a deduction for different property if the property 40 owned by the individual's spouse is located outside Indiana and the 41 individual files an affidavit with the county auditor containing the 42 following information:



1	(1) The names of the county and state in which the individual's
2	spouse claims a deduction substantially similar to the deduction
3	allowed by this section.
4	(2) A statement made under penalty of perjury that the following
5	are true:
6	(A) That the individual and the individual's spouse maintain
7	separate principal places of residence.
8	(B) That neither the individual nor the individual's spouse has
9	an ownership interest in the other's principal place of
10	residence.
11	(C) That neither the individual nor the individual's spouse has,
12	for that same year, claimed a standard or substantially similar
13	deduction for any property other than the property maintained
14	as a principal place of residence by the respective individuals.
15	A county auditor may require an individual or an individual's spouse to
16	provide evidence of the accuracy of the information contained in an
17	affidavit submitted under this subsection. The evidence required of the
18	individual or the individual's spouse may include state income tax
19	returns, excise tax payment information, property tax payment
20	information, driver license information, and voter registration
21	information.
22	(o) If:
23	(1) a property owner files a statement under subsection (e) to
24	claim the deduction provided by this section for a particular
25	property; and
26	(2) the county auditor receiving the filed statement determines
27	that the property owner's property is not eligible for the deduction;
28	the county auditor shall inform the property owner of the county
29	auditor's determination in writing. If a property owner's property is not
30	eligible for the deduction because the county auditor has determined
31	that the property is not the property owner's principal place of
32	residence, the property owner may appeal the county auditor's
33	determination to the county property tax assessment board of appeals
34	as provided in IC 6-1.1-15. The county auditor shall inform the
35	property owner of the owner's right to appeal to the county property tax
36	assessment board of appeals when the county auditor informs the
37	property owner of the county auditor's determination under this
38	subsection.
39	(p) An individual is entitled to the deduction under this section for
40	a homestead for a particular assessment date if:
41	(1) either:
42	(A) the individual's interest in the homestead as described in



1subsection (a)(2)(B) is conveyed to the individual after the assessment date, but within the calendar year in which the assessment date occurs; or4(B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date, but within the calendar year in which the assessment date occurs;7(2) on the assessment date: (A) the property on which the homestead is currently located was vacant land; or10(B) the construction of the dwelling that constitutes the homestead was not completed;12(3) either:13(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; or17(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; and21(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
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 (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
18section 44 of this chapter is submitted to the county assessor19on or before December 31 of the calendar year for the20individual's purchase of the homestead; and21(4) the individual files with the county auditor on or before22December 31 of the calendar year in which the assessment date23occurs a statement that:24(A) lists any other property for which the individual would25otherwise receive a deduction under this section for the26assessment date; and27(B) cancels the deduction described in clause (A) for that
19on or before December 31 of the calendar year for the individual's purchase of the homestead; and21(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:24(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
 individual's purchase of the homestead; and 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
 (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
 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
 23 occurs a statement that: 24 (A) lists any other property for which the individual would 25 otherwise receive a deduction under this section for the 26 assessment date; and 27 (B) cancels the deduction described in clause (A) for that
 25 otherwise receive a deduction under this section for the 26 assessment date; and 27 (B) cancels the deduction described in clause (A) for that
26assessment date; and27(B) cancels the deduction described in clause (A) for that
27 (B) cancels the deduction described in clause (A) for that
28 property.
29 An individual who satisfies the requirements of subdivisions (1)
30 through (4) is entitled to the deduction under this section for the
31 <i>homestead for the assessment date, even if on the assessment date the</i>
32 property on which the homestead is currently located was vacant land
33 or the construction of the dwelling that constitutes the homestead was
34 <i>not completed. The county auditor shall apply the deduction for the</i>
35 assessment date and for the assessment date in any later year in which
36 the homestead remains eligible for the deduction. A homestead that
37 qualifies for the deduction under this section as provided in this
38 subsection is considered a homestead for purposes of section 37.5 of
39 <i>this chapter and IC 6-1.1-20.6. The county auditor shall cancel the</i>
40 <i>deduction under this section for any property that is located in the</i>
41 county and is listed on the statement filed by the individual under
42 subdivision (4). If the property listed on the statement filed under



1 subdivision (4) is located in another county, the county auditor who 2 receives the statement shall forward the statement to the county 3 auditor of that other county, and the county auditor of that other 4 county shall cancel the deduction under this section for that property. 5 (p) (q) This subsection applies to an application for the deduction 6 provided by this section that is filed for an assessment date occurring 7 after December 31, 2013. Notwithstanding any other provision of this 8 section, an individual buying a mobile home that is not assessed as 9 real property or a manufactured home that is not assessed as real 10 property under a contract providing that the individual is to pay the 11 property taxes on the mobile home or manufactured home is not 12 entitled to the deduction provided by this section unless the parties to 13 the contract comply with IC 9-17-6-17. 14 (q) (r) This subsection: 15 (1) applies to an application for the deduction provided by this 16 section that is filed for an assessment date occurring after 17 December 31, 2013; and 18 (2) does not apply to an individual described in subsection $\frac{(p)}{(p)}$. 19 (q). 20 The owner of a mobile home that is not assessed as real property or a 21 manufactured home that is not assessed as real property must attach 22 a copy of the owner's title to the mobile home or manufactured home 23 to the application for the deduction provided by this section. 24 (s) If a deduction is granted under this section for real property 25 and the county auditor later determines that the real property is no 26 longer eligible for the deduction under this section, the county 27 auditor shall make a notation on the tax duplicate that the real 28 property is ineligible for the deduction and indicate the date the 29 notation is made. A bona fide purchaser without knowledge of the 30 removal of the deduction under this section is not liable for any 31 additional taxes and civil penalty that result from the removal of 32 the deduction and the additional taxes and civil penalty (if any) are 33 imposed for property taxes first due and payable for an assessment 34 date occurring before the notation is placed on the tax duplicate. 35 SECTION 2. IC 32-21-4-1, AS AMENDED BY P.L.129-2008, 36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE 37 JULY 1, 2014]: Sec. 1. (a) The following must be recorded in the 38 recorder's office of the county where the land is situated: 39 (1) A conveyance or mortgage of land or of any interest in land. 40 (2) A lease for more than three (3) years. 41 (b) A conveyance, mortgage, or lease takes priority according to the 42

time of its filing. The conveyance, mortgage, or lease is fraudulent and



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1 void as against any subsequent purchaser, lessee, or mortgagee in good 2 faith and for a valuable consideration if the purchaser's, lessee's, or 3 mortgagee's deed, mortgage, or lease is first recorded. 4 (c) This subsection applies only to a mortgage. This subsection 5 applies regardless of when a mortgage was recorded. If: 6 (1) an instrument referred to in subsection (a) is recorded; and 7 (2) the instrument does not comply with the: 8 (A) requirements of: 9 (i) IC 32-21-2-3; or 10 (ii) IC 32-21-2-7; or 11 (B) technical requirements of IC 36-2-11-16(c); 12 the instrument is validly recorded and provides constructive notice of 13 the contents of the instrument as of the date of filing. 14 SECTION 3. IC 36-7-9-26 IS AMENDED TO READ AS 15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 26. (a) The 16 enforcement authority shall record in the office of the county recorder 17 orders issued under section 5(a)(2), 5(a)(5), 5(a)(6), 5(a)(7), or 6(a) of 18 this chapter. If the enforcement authority records an order issued under 19 section 5(a)(2), 5(a)(5), 5(a)(6), 5(a)(7), or 6(a) of this chapter, 20 statements of rescission issued under section 6(b) of this chapter, 21 statements that public bids are to be let under section 11 of this chapter, 22 and records of action in which the order is affirmed, modified, or 23 rescinded taken by the hearing authority under section 7 of this chapter 24 shall be recorded. The recorder shall charge the fee required under 25 IC 36-2-7-10 for recording these items. 26 (b) A person who takes an interest in unsafe premises that are the 27 subject of a recorded order takes that interest, whether or not a hearing 28 has been held, subject to the terms of the order and other documents 29 recorded under subsection (a) and in such a manner that all of the 30 requirements of sections 10, 11, and 17 through 22 of this chapter 31 relating to the issuance of orders, service of orders and affirmation of 32 orders are considered satisfied. If a hearing has been held, the interest 33 is taken subject to the terms of the order as modified at the hearing, in 34 other documents recorded under subsection (a), and in such a manner 35 that all of the requirements of sections 10, 11, and 17 through 22 of this 36 chapter relating to the issuance of orders, service of orders, and 37 modification of orders at hearing are considered satisfied. 38 (c) A person who takes an interest in unsafe premises that are the 39 subject of a recorded statement that public bids are to be let takes the 40

interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.



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