

SENATE BILL No. 559

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-10-16; IC 6-1.1-10-47.

Synopsis: Property tax exemption for affordable housing. Provides a property tax exemption for affordable rental housing property when the property does not otherwise qualify for a property tax exemption. Provides that, in order to qualify for the exemption, the owner must meet the criteria applied by the Internal Revenue Service in determining if an organization that provides low income housing is considered charitable because it relieves the poor and distressed.

Effective: January 1, 2018.

Eckerty

January 18, 2017, read first time and referred to Committee on Tax and Fiscal Policy.



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. 559

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 6-1.1-10-16, AS AMENDED BY P.L.181-2016,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2018]: Sec. 16. (a) All or part of a building is exempt
4 from property taxation if it is owned, occupied, and used by a person
5 for educational, literary, scientific, religious, or charitable purposes.
6 (b) A building is exempt from property taxation if it is owned,
7 occupied, and used by a town, city, township, or county for educational,
8 literary, scientific, fraternal, or charitable purposes.
9 (c) A tract of land, including the campus and athletic grounds of an
10 educational institution, is exempt from property taxation if:
11 (1) a building that is exempt under subsection (a) or (b) is situated
12 on it;
13 (2) a parking lot or structure that serves a building referred to in
14 subdivision (1) is situated on it; or
15 (3) the tract:
16 (A) is owned by a nonprofit entity established for the purpose
17 of retaining and preserving land and water for their natural



- 1 characteristics;
- 2 (B) does not exceed five hundred (500) acres; and
- 3 (C) is not used by the nonprofit entity to make a profit.
- 4 (d) A tract of land is exempt from property taxation if:
- 5 (1) it is purchased for the purpose of erecting a building that is to
- 6 be owned, occupied, and used in such a manner that the building
- 7 will be exempt under subsection (a) or (b); and
- 8 (2) not more than four (4) years after the property is purchased,
- 9 and for each year after the four (4) year period, the owner
- 10 demonstrates substantial progress and active pursuit towards the
- 11 erection of the intended building and use of the tract for the
- 12 exempt purpose. To establish substantial progress and active
- 13 pursuit under this subdivision, the owner must prove the existence
- 14 of factors such as the following:
- 15 (A) Organization of and activity by a building committee or
- 16 other oversight group.
- 17 (B) Completion and filing of building plans with the
- 18 appropriate local government authority.
- 19 (C) Cash reserves dedicated to the project of a sufficient
- 20 amount to lead a reasonable individual to believe the actual
- 21 construction can and will begin within four (4) years.
- 22 (D) The breaking of ground and the beginning of actual
- 23 construction.
- 24 (E) Any other factor that would lead a reasonable individual to
- 25 believe that construction of the building is an active plan and
- 26 that the building is capable of being completed within eight (8)
- 27 years considering the circumstances of the owner.
- 28 If the owner of the property sells, leases, or otherwise transfers a tract
- 29 of land that is exempt under this subsection, the owner is liable for the
- 30 property taxes that were not imposed upon the tract of land during the
- 31 period beginning January 1 of the fourth year following the purchase
- 32 of the property and ending on December 31 of the year of the sale,
- 33 lease, or transfer. The county auditor of the county in which the tract
- 34 of land is located may establish an installment plan for the repayment
- 35 of taxes due under this subsection. The plan established by the county
- 36 auditor may allow the repayment of the taxes over a period of years
- 37 equal to the number of years for which property taxes must be repaid
- 38 under this subsection.
- 39 (e) Personal property is exempt from property taxation if it is owned
- 40 and used in such a manner that it would be exempt under subsection (a)
- 41 or (b) if it were a building.
- 42 (f) A hospital's property that is exempt from property taxation under



1 subsection (a), (b), or (e) shall remain exempt from property taxation
 2 even if the property is used in part to furnish goods or services to
 3 another hospital whose property qualifies for exemption under this
 4 section.

5 (g) Property owned by a shared hospital services organization that
 6 is exempt from federal income taxation under Section 501(c)(3) or
 7 501(e) of the Internal Revenue Code is exempt from property taxation
 8 if it is owned, occupied, and used exclusively to furnish goods or
 9 services to a hospital whose property is exempt from property taxation
 10 under subsection (a), (b), or (e).

11 (h) This section does not exempt from property tax an office or a
 12 practice of a physician or group of physicians that is owned by a
 13 hospital licensed under IC 16-21-2 or other property that is not
 14 substantially related to or supportive of the inpatient facility of the
 15 hospital unless the office, practice, or other property:

- 16 (1) provides or supports the provision of charity care (as defined
 17 in IC 16-18-2-52.5), including providing funds or other financial
 18 support for health care services for individuals who are indigent
 19 (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
- 20 (2) provides or supports the provision of community benefits (as
 21 defined in IC 16-21-9-1), including research, education, or
 22 government sponsored indigent health care (as defined in
 23 IC 16-21-9-2).

24 However, participation in the Medicaid or Medicare program alone
 25 does not entitle an office, practice, or other property described in this
 26 subsection to an exemption under this section.

27 (i) The exemption provided in this subsection applies only for an
 28 assessment date occurring before January 2, 2017. A tract of land or a
 29 tract of land plus all or part of a structure on the land is exempt from
 30 property taxation if:

- 31 (1) the tract is acquired for the purpose of erecting, renovating, or
 32 improving a single family residential structure that is to be given
 33 away or sold:
 - 34 (A) in a charitable manner;
 - 35 (B) by a nonprofit organization; and
 - 36 (C) to low income individuals who will:
 - 37 (i) use the land as a family residence; and
 - 38 (ii) not have an exemption for the land under this section;
- 39 (2) the tract does not exceed three (3) acres; and
- 40 (3) the tract of land or the tract of land plus all or part of a
 41 structure on the land is not used for profit while exempt under this
 42 section.



- 1 This subsection expires January 1, 2028.
- 2 (j) An exemption under subsection (i) terminates:
- 3 (1) when the property is conveyed by the nonprofit organization
- 4 to another owner; or
- 5 (2) January 2, 2017;
- 6 whichever occurs first. This subsection expires January 1, 2028.
- 7 (k) When property that is exempt in any year under subsection (i) is
- 8 conveyed to another owner, the nonprofit organization receiving the
- 9 exemption must file a certified statement with the auditor of the county,
- 10 notifying the auditor of the change not later than sixty (60) days after
- 11 the date of the conveyance. The county auditor shall immediately
- 12 forward a copy of the certified statement to the county assessor. A
- 13 nonprofit organization that fails to file the statement required by this
- 14 subsection is liable for the amount of property taxes due on the
- 15 property conveyed if it were not for the exemption allowed under this
- 16 chapter.
- 17 (l) If property is granted an exemption in any year under subsection
- 18 (i) and the owner:
- 19 (1) fails to transfer the tangible property within eight (8) years
- 20 after the assessment date for which the exemption is initially
- 21 granted; or
- 22 (2) transfers the tangible property to a person who:
- 23 (A) is not a low income individual; or
- 24 (B) does not use the transferred property as a residence for at
- 25 least one (1) year after the property is transferred;
- 26 the person receiving the exemption shall notify the county recorder and
- 27 the county auditor of the county in which the property is located not
- 28 later than sixty (60) days after the event described in subdivision (1) or
- 29 (2) occurs. The county auditor shall immediately inform the county
- 30 assessor of a notification received under this subsection. This
- 31 subsection expires January 1, 2028.
- 32 (m) If subsection (l)(1) or (l)(2) applies, the owner shall pay, not
- 33 later than the date that the next installment of property taxes is due, an
- 34 amount equal to the sum of the following:
- 35 (1) The total property taxes that, if it were not for the exemption
- 36 under subsection (i), would have been levied on the property in
- 37 each year in which an exemption was allowed.
- 38 (2) Interest on the property taxes at the rate of ten percent (10%)
- 39 per year.
- 40 This subsection expires January 1, 2028.
- 41 (n) The liability imposed by subsection (m) is a lien upon the
- 42 property receiving the exemption under subsection (i). An amount



1 collected under subsection (m) shall be collected as an excess levy. If
 2 the amount is not paid, it shall be collected in the same manner that
 3 delinquent taxes on real property are collected. This subsection expires
 4 January 1, 2028.

5 (o) Property referred to in this section shall be assessed to the extent
 6 required under IC 6-1.1-11-9.

7 (p) A for-profit provider of early childhood education services to
 8 children who are at least four (4) but less than six (6) years of age on
 9 the annual assessment date may receive the exemption provided by this
 10 section for property used for educational purposes only if all the
 11 requirements of section 46 of this chapter are satisfied. A for-profit
 12 provider of early childhood education services that provides the
 13 services only to children younger than four (4) years of age may not
 14 receive the exemption provided by this section for property used for
 15 educational purposes.

16 **(q) Property that meets the requirements for an exemption**
 17 **under section 47 of this chapter is exempt from property taxation**
 18 **under this section.**

19 SECTION 2. IC 6-1.1-10-47 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 21 JANUARY 1, 2018]: **Sec. 47. (a) Tangible property owned,**
 22 **occupied, and used to provide affordable rental housing that is not**
 23 **otherwise exempt under section 16(a) through 16(p) of this chapter**
 24 **is exempt under section 16(q) of this chapter if all the following**
 25 **requirements are satisfied:**

26 **(1) The owner is:**

27 **(A) an organization exempt from taxation under Section**
 28 **501(c)(3) of the Internal Revenue Code; or**

29 **(B) a single member limited liability company:**

30 **(i) that is a disregarded entity under the Internal**
 31 **Revenue Code of an organization described in clause**
 32 **(A); and**

33 **(ii) for which an organization described in clause (A) is**
 34 **the only member.**

35 **(2) The owner meets either of the following criteria for**
 36 **organizations that provide low income housing to be**
 37 **considered charitable as described in Section 501(c)(3) of the**
 38 **Internal Revenue Code because they relieve the poor and**
 39 **distressed:**

40 **(A) The safe harbor provision contained in Internal**
 41 **Revenue Service revenue procedure 96-32 (as in effect**
 42 **January 1, 2018).**



- 1 **(B) The facts and circumstances test that is applied in**
 2 **Internal Revenue Service revenue procedure 96-32 (as in**
 3 **effect January 1, 2018) if the organization falls outside the**
 4 **safe harbor provision described in clause (A).**
- 5 **(3) The owner provides the township or county assessor with**
 6 **documentation to illustrate compliance with the criteria in**
 7 **Internal Revenue Service revenue procedure 96-32 (as in**
 8 **effect January 1, 2018). The documentation provided under**
 9 **this subdivision may include any of the following:**
- 10 **(A) The organization’s ruling or determination letter from**
 11 **the Internal Revenue Service for tax exempt status.**
- 12 **(B) The organization's Internal Revenue Service Form 990**
 13 **(Return of Organization Exempt from Income Tax), filed**
 14 **by the organization for a taxable year.**
- 15 **(C) The organization's rent roll demonstrating that the**
 16 **income levels of the residents of the tangible property for**
 17 **which the owner is seeking an exemption under this section**
 18 **meet the criteria described in subdivision (2).**
- 19 **The department of local government finance may adopt rules**
 20 **under IC 4-22-2 to specify the documentation that an owner**
 21 **may be required to provide to a township or county assessor**
 22 **in order to illustrate compliance with the criteria in Internal**
 23 **Revenue Service revenue procedure 96-32 (as in effect**
 24 **January 1, 2018).**
- 25 **(b) An organization seeking an exemption under this section**
 26 **must provide a copy of the organization's rental policy to the**
 27 **township or county assessor.**
- 28 **(c) An owner of property receiving an exemption under this**
 29 **section shall not be considered noncompliant with the requirements**
 30 **of subsection (a) due to an increase in any tenant’s income during**
 31 **the period of such tenant’s occupancy.**
- 32 **(d) An owner of property seeking an exemption under section 16**
 33 **of this chapter based on this section must apply for the exemption**
 34 **as required by IC 6-1.1-11.**
- 35 **(e) This section does not apply to property that is exempt under**
 36 **section 16.7 of this chapter.**
- 37 **SECTION 3. [EFFECTIVE JANUARY 1, 2018] (a) IC 6-1.1-10-47,**
 38 **as added by this act, applies to assessment dates after December 31,**
 39 **2017.**
- 40 **(b) This SECTION expires January 1, 2021.**

