

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 ENROLLED ACT No. 249

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AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-25-2, AS AMENDED BY SEA 422-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The total amount of money required for the redemption of real property equals:

- (1) the sum of the amounts prescribed in subsections (b) through (f); or
- (2) the amount prescribed in subsection (g);

reduced by any amounts held in the name of the taxpayer or the purchaser in the tax sale surplus fund.

(b) Except as provided in subsection (g), the total amount required for redemption includes:

- (1) one hundred ten percent (110%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if the tract or item of real property is redeemed not more than six (6) months after the date of sale; or
- (2) one hundred fifteen percent (115%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if: the tract or item of real property is redeemed more than six (6) months but not more than one (1) year after the date of sale.

(c) Except as provided in subsection (g), in addition to the amount required under subsection (b), the total amount required for redemption includes the amount by which the purchase price exceeds the minimum

SEA 249 — CC 1



bid on the real property plus:

- (1) five percent (5%) per annum on the amount by which the purchase price exceeds the minimum bid on the property, **if the date of sale occurs after June 30, 2014; or**
- (2) **ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid on the property, if the date of sale occurs before July 1, 2014.**

(d) Except as provided in subsection (g), in addition to the amount required under subsections (b) and (c), the total amount required for redemption includes all taxes and special assessments upon the property paid by the purchaser after the sale plus:

- (1) **five percent (5%) per annum on those taxes and special assessments, if the date of sale occurs after June 30, 2014; or**
- (2) **ten percent (10%) interest per annum on those taxes and special assessments, if the date of sale occurs before July 1, 2014.**

(e) Except as provided in subsection (g), in addition to the amounts required under subsections (b), (c), and (d), the total amount required for redemption includes the following costs, if certified before redemption and not earlier than thirty (30) days after the date of sale of the property being redeemed by the payor to the county auditor on a form prescribed by the state board of accounts, that were incurred and paid by the purchaser, the purchaser's assignee, or the county, before redemption:

- (1) The attorney's fees and costs of giving notice under section 4.5 of this chapter.
- (2) The costs of a title search or of examining and updating the abstract of title for the tract or item of real property.

(f) The total amount required for redemption includes, in addition to the amounts required under subsections (b) and (e), all taxes, special assessments, interest, penalties, and fees on the property that accrued after the sale.

(g) With respect to a tract or item of real property redeemed under section 4(c) of this chapter, instead of the amounts stated in subsections (b) through (f), the total amount required for redemption is the amount determined under IC 6-1.1-24-6.1(b)(4).

SECTION 2. IC 6-1.1-25-4, AS AMENDED BY SEA 422-2014, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The period for redemption of real property sold under IC 6-1.1-24 except for IC 6-1.1-24-1.5 is:

- (1) one (1) year after the date of sale; or
  - (2) one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17 or IC 36-7-17.1.
- (b) Subject to subsection (l) and IC 6-1.1-24-9(d), the period for



redemption of real property:

- (1) on which the county executive acquires a lien under IC 6-1.1-24-6; and
- (2) for which the certificate of sale is not sold under IC 6-1.1-24-6.1;

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

(c) The period for redemption of real property:

- (1) on which the county executive acquires a lien under IC 6-1.1-24-6; and
- (2) for which the certificate of sale is sold under IC 6-1.1-24;

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

(d) When a deed for real property is executed under this chapter, the county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor. If real property that appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale and an amount that is at least equal to the minimum sale price required under IC 6-1.1-24-5 is not received, the county auditor shall issue a deed to the real property, subject to this chapter.

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

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

- (1) all easements, covenants, declarations, and other deed restrictions shown by public records;
- (2) laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection; and
- (3) liens and encumbrances created or suffered by the grantee.

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

- (1) does not operate to extinguish an easement recorded before the date of the tax sale in the office of the recorder of the county



in which the real property is located, regardless of whether the easement was taxed under this article separately from the real property; and

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

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

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

(2) the regularity of all proper proceedings; and

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

(i) A county auditor is not required to execute a deed to the county executive under this chapter if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property. The county executive may enter the property to conduct environmental investigations.

(j) If the county executive makes the determination under subsection (i) as to any interest in an oil or gas lease or separate mineral rights, the county treasurer shall certify all delinquent taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk, following the procedures in IC 6-1.1-23-9. After the date of the county treasurer's certification, the certified amount is subject to collection as delinquent personal property taxes under IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an interest shall be zero (0) until production commences.

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

(1) the amount of:

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

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

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

(l) If a tract or item of real property did not sell at a tax sale and the county treasurer and the owner of real property agree before the expiration of the period for redemption under subsection (b) to a mutually satisfactory arrangement for the payment of the entire amount



required for redemption under section 2 of this chapter before the expiration of a period for redemption extended under this subsection:

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

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

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

SECTION 3. IC 6-1.1-36-17, AS AMENDED BY P.L.257-2013, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 17. (a) As used in this section, "nonreverting fund" refers to a nonreverting fund established under subsection (c).

(b) Each county auditor that makes a determination that property was not eligible for a standard deduction under IC 6-1.1-12-37 ~~or a homestead credit under IC 6-1.1-20-9 (repeated)~~ in a particular year shall:

(1) notify the county treasurer of the determination; **and**

(2) **do one (1) or more of the following:**

(A) **Make a notation on the tax duplicate that the property is ineligible for the standard deduction and indicate the date the notation is made.**

(B) **Record a notice of an ineligible homestead lien under subsection (d)(2).**

The county auditor shall issue a notice of taxes, interest, and penalties due to the owner **that improperly received the standard deduction** and include a statement that the payment is to be made payable to the county auditor. The notice must require full payment of the amount owed within thirty (30) days. **The additional taxes and civil penalties that result from the removal of the deduction, if any, are imposed for property taxes first due and payable for an assessment date occurring before the earlier of the date of the notation made under subdivision (2)(A) or the date a notice of an ineligible homestead lien is recorded under subsection (d)(2) in the office of the county recorder. With respect to property subject to a determination made under this subsection that is owned by a bona fide purchaser without knowledge of the determination, no lien attaches for any additional taxes and civil penalties that result from the removal of the deduction.**

(c) Each county auditor shall establish a nonreverting fund. Upon collection of the adjustment in tax due (and any interest and penalties



on that amount) after the termination of a deduction or credit as specified in subsection (b), the county treasurer shall deposit that amount:

- (1) in the nonreverting fund, if the county contains a consolidated city; or
- (2) if the county does not contain a consolidated city:
  - (A) in the nonreverting fund, to the extent that the amount collected, after deducting the direct cost of any contract, including contract related expenses, under which the contractor is required to identify homestead deduction eligibility, does not cause the total amount deposited in the nonreverting fund under this subsection for the year during which the amount is collected to exceed one hundred thousand dollars (\$100,000); or
  - (B) in the county general fund, to the extent that the amount collected exceeds the amount that may be deposited in the nonreverting fund under clause (A).

**(d)** Any part of the amount **due under subsection (b)** that is not collected by the due date ~~shall be~~ **is subject to collection under one (1) or more of the following:**

- (1) After being** placed on the tax duplicate for the affected property and collected in the same manner as other property taxes.
- (2) Through a notice of an ineligible homestead lien recorded in the county recorder's office without charge.**

The adjustment in tax due (and any interest and penalties on that amount) after the termination of a deduction or credit as specified in subsection (b) shall be deposited as specified in ~~this~~ subsection (c) only in the first year in which that amount is collected. **Upon the collection of the amount due under subsection (b) or the release of a lien recorded under subdivision (2), the county auditor shall submit the appropriate documentation to the county recorder, who shall amend the information recorded under subdivision (2) without charge to indicate that the lien has been released or the amount has been paid in full.**

~~(d)~~ **(e)** The amount to be deposited in the nonreverting fund or the county general fund under subsection (c) includes adjustments in the tax due as a result of the termination of deductions or credits available only for property that satisfies the eligibility for a standard deduction under IC 6-1.1-12-37, ~~or a homestead credit under IC 6-1.1-20.9 (repeated)~~; including the following:

- (1) Supplemental deductions under IC 6-1.1-12-37.5.
- (2) Homestead credits under IC 6-1.1-20.4, IC 6-3.5-1.1-26, IC 6-3.5-6-13, IC 6-3.5-6-32, IC 6-3.5-7-13.1, or IC 6-3.5-7-26, or any other law.



(3) Credit for excessive property taxes under IC 6-1.1-20.6-7.5 or IC 6-1.1-20.6-8.5.

Any amount paid that exceeds the amount required to be deposited under subsection (c)(1) or (c)(2) shall be distributed as property taxes.

~~(e)~~ (f) Money deposited under subsection (c)(1) or (c)(2) shall be treated as miscellaneous revenue. Distributions shall be made from the nonreverting fund established under this section upon appropriation by the county fiscal body and shall be made only for the following purposes:

(1) Fees and other costs incurred by the county auditor to discover property that is eligible for a standard deduction under IC 6-1.1-12-37. ~~or a homestead credit under IC 6-1.1-20.9 (repealed).~~

(2) Other expenses of the office of the county auditor.

(3) The cost of preparing, sending, and processing notices described in IC 6-1.1-22-8.1(b)(9).

The amount of deposits in a reverting fund, the balance of a nonreverting fund, and expenditures from a reverting fund may not be considered in establishing the budget of the office of the county auditor or in setting property tax levies that will be used in any part to fund the office of the county auditor.

SECTION 4. IC 32-17-4-2.5, AS ADDED BY P.L.41-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2.5. (a) Not later than forty-five (45) days after the court has acquired jurisdiction over all the parties who have an interest in the property that is the subject of the action, the court shall refer the matter to mediation in accordance with the Indiana rules of alternative dispute resolution.

(b) Except as provided in subsection (c), mediation of the case may not begin until an appraiser files an appraisal report with the court.

(c) If each party waives the appraisal of the property, the case may move to mediation without the filing of an appraisal report.

(d) In its order referring the matter for mediation, the court shall advise the parties:

(1) that the real or personal property will be sold if the parties are unable to reach an agreement not later than sixty (60) days after the order is issued; and

(2) that the parties may agree upon a method of the sale of the property, and if the parties do not agree upon a method of the sale of the property, the property may be sold at public auction or by the sheriff under subsection (g).

(e) Except if the parties agree to waive the appraisal of the property, not later than thirty (30) days after the court acquires jurisdiction under subsection (a), the court shall appoint a licensed real estate appraiser



to appraise the property. The appraiser shall file the appraisal with the court.

(f) After receiving the appraisal, the court shall notify the parties of the appraised value of the property.

(g) If an agreed settlement is not reached in mediation or if the parties agree upon a method of sale, the court shall not later than thirty (30) days after the date the mediator files a report with the court that the mediation was not successful, or the parties file their agreement establishing the method of sale:

(1) order the property to be sold using the method that all the parties agree upon; or

(2) order the parties to select an auctioneer to sell the property. If the parties fail to select an auctioneer not later than thirty (30) days after the court's order to select an auctioneer, the court shall order the sheriff to sell the property in the same manner that property is sold at execution under IC 34-55-6. **The manner of appraising property described in this section satisfies the appraisal requirement under IC 34-55-4 or any other statute. However, if the parties waive appraisal of the property:**

**(A) the court shall order the sale to proceed without relief from valuation or appraisal under IC 34-55-4 or any other statute; and**

**(B) IC 34-55-4-1 does not apply to the sale.**

(h) At the time the court orders the property to be sold, the court shall notify all lienholders and other persons with an interest in the lien or property, as identified in the title search or lien search required under IC 29-1-17-11 or section 2 of this chapter, of the sale. The property must be sold free and clear of all liens and special assessments except prescriptive easements, easements of record, and irrevocable licenses, with any sum secured by a lien or special assessment to be satisfied from the proceeds of the sale.

(i) The person who causes a title search to be conducted under section 2 of this chapter or a title or lien search to be conducted under IC 29-1-17-11 is entitled to reimbursement from the proceeds of the sale.

(j) Any person who has paid a tax or special assessment on the property is entitled to pro rata reimbursement from the proceeds of the sale.

(k) Any person may advertise a sale under this section at the person's own expense, but is not entitled to reimbursement for these expenses.

(l) After deduction of the amounts described in subsections (h), (i), and (j) and the reasonable expenses of the sale, the court shall divide the proceeds of the sale among the remaining property owners in proportion to their ownership interest.



(m) If a party having an ownership interest in the property becomes the successful purchaser of the property either through agreed settlement or through auction, that person shall be given a full credit based on the percentage of the person's interest in the property before the purchase.

(n) As used in this subsection, "real estate professional" has the meaning set forth in IC 23-1.5-1-13.5. If the court has ordered that some or all of the property be sold at auction and, at any time before the property is sold at auction, all parties inform the court in writing that they:

- (1) wish to sell some or all of the property through a real estate professional;
- (2) have jointly selected a real estate professional; and
- (3) have agreed upon a listing price for the property;

the court shall rescind its order that the property, or a part of the property, be sold at auction and permit the property to be sold through a real estate professional. If some or all of the property has not been sold at the expiration of the listing agreement with the real estate professional, upon petition by any party, the court shall order the property to be sold at auction in accordance with subsection (h).

SECTION 5. IC 32-21-4-1, AS AMENDED BY P.L.129-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The following must be recorded in the recorder's office of the county where the land is situated:

- (1) A conveyance or mortgage of land or of any interest in land.
- (2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.

(c) ~~This subsection applies only to a mortgage. This subsection applies regardless of when a mortgage was recorded.~~ If:

- (1) an instrument referred to in subsection (a) is recorded; and
- (2) the instrument does not comply with the:
  - (A) requirements of:
    - (i) IC 32-21-2-3; or
    - (ii) IC 32-21-2-7; or
  - (B) technical requirements of IC 36-2-11-16(c);

the instrument is validly recorded and provides constructive notice of the contents of the instrument as of the date of filing.

SECTION 6. IC 32-21-7-1, AS AMENDED BY P.L.171-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) **Except as provided in subsection (b), in**



any suit an action to establish title to ~~land or~~ real estate property, possession of the ~~land or~~ real estate property is not adverse to the owner in a manner as to establish title or rights in and to the ~~land or~~ real estate property unless the adverse possessor or claimant pays and discharges all taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the ~~land or~~ real estate property during the period the adverse possessor or claimant claims to have adversely possessed the ~~land or~~ real estate property. adversely. However, this section does not relieve any adverse possessor or claimant from proving all the elements of title by adverse possession required by law.

**(b) A governmental entity may claim title to real property by adverse possession without having paid all taxes and special assessments due on the real property during the period of adverse possession if the governmental entity was exempt from the payment of property taxes and special assessments during the period of adverse possession.**

SECTION 7. IC 32-25-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as provided in subsection (b) or (d), in a voluntary conveyance, the grantee of a condominium unit is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the common expenses incurred before the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts of common expenses paid by the grantee.

(b) The grantee:

- (1) is entitled to a statement from the **association**, manager, or board of directors setting forth the amount of the unpaid assessments against the grantor; and
- (2) is not liable for, nor shall the condominium unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth in the statement.

**(c) The grantee may obtain the statement of unpaid assessments described in subsection (b) by making a written request to the association, manager, or board of directors at:**

- (1) the last address at which the grantor made a payment of the assessments; or
- (2) the address for the association, manager, or board of directors as listed in the records of the secretary of state.

**(d) If the association, manager, or board of directors does not provide, by first class or certified mail, a statement of unpaid assessments not later than ten (10) business days after receipt of the written request, the:**

- (1) grantee is not liable for; and
- (2) condominium unit conveyed is not subject to a lien for;



**any unpaid assessments against the grantor.**

SECTION 8. IC 34-55-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. Upon prior petition of the debtor, ~~or any creditor involved in the execution proceedings, or,~~ **in the case of a partition action, any party having an interest in the property,** the court in its order of execution shall order the property sold by the sheriff through the services of an auctioneer if the court determines that:

- (1) a sale is economically feasible; or
- (2) all the creditors in the proceedings agree to both that method of sale and the compensation to be paid the auctioneer.

SECTION 9. IC 34-55-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) The auctioneer's fee shall be a reasonable amount stated in the court's order.

**(b) This subsection does not apply to a partition action.** ~~However,~~ If the sale by use of an auctioneer has not been agreed to by the creditors in the proceedings and the sale price is less than the ~~amount set out in section 3 of this chapter,~~ **sale price described in IC 34-6-2-35,** the auctioneer is entitled only to the auctioneer's advertising expenses plus one hundred dollars (\$100).

~~(b)~~ **(c)** The amount due the auctioneer for the auctioneer's expenses and fee, if any, shall be paid as a cost of the sale from the sale proceeds before the payment of any other payment from the sale proceeds.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

