



February 20, 2004

**ENGROSSED
HOUSE BILL No. 1218**

DIGEST OF HB 1218 (Updated February 18, 2004 4:17 pm - DI 106)

Citations Affected: IC 36-9.

Synopsis: Barrett Law assessment collection deferment. Adds sanitary sewers as an improvement that may be financed by a municipality by use of the Barrett Law. For purposes of the Barrett Law applicable to municipalities, allows a municipal fiscal officer and municipal works board to establish procedures allowing the municipality to defer collection of a special assessment that is in default by preserving the assessment as a lien upon the property subject to the assessment. Requires the collection of the preserved lien: (1) when ownership of the property is transferred; and (2) before the final bond maturity date. Provides that deferred assessments are treated similarly to delinquent property taxes. (Under current law, an assessment in default must be collected through: (1) payment in full; (2) foreclosure on the property; or (3) a conveyance in satisfaction of the assessment.) Makes a technical correction.

Effective: July 1, 2004.

Summers, Moses

(SENATE SPONSORS — GARD, BREAUX)

January 15, 2004, read first time and referred to Committee on Local Government.
January 29, 2004, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.
February 5, 2004, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 10, 2004, read first time and referred to Committee on Judiciary.
February 19, 2004, amended, reported favorably — Do Pass.

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EH 1218—LS 7319/DI 108+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1218

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

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

1 SECTION 1. IC 36-9-37-11, AS AMENDED BY P.L.62-2001,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 11. ~~(a)~~ If a municipal works board orders any of
4 the following improvements and assessments are imposed after June
5 30, 2001, to pay for the improvements or to repay bonds issued under
6 this chapter after June 30, 2001, each owner of property assessed for
7 that improvement may elect to pay the owner's assessment in
8 installments with interest as described in section 8.5(a) of this chapter:

- 9 (1) Streets.
- 10 (2) Alleys.
- 11 (3) Other paved public places.
- 12 (4) Lighting.
- 13 (5) For municipalities that own and operate a water utility, water
- 14 main extensions from the water utility.
- 15 **(6) Sanitary sewers.**

16 SECTION 2. IC 36-9-37-19 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) If a person

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1 defaults in the payment of a waived installment of principal or
2 interest of an assessment, the municipal fiscal officer shall mail notice
3 of the default to the person. The notice must meet the following
4 conditions:

- 5 (1) Be mailed not more than sixty (60) days after the default.
- 6 (2) Show the amount of the default, plus interest on that amount
7 for ~~six (6) months~~ **the number of months the person is in**
8 **default** at one-half (1/2) the rate prescribed by IC 6-1.1-37-10.
- 9 (3) State that the amount of the default, plus interest, is due by the
10 ~~following May 10 or November 10 after the notice is mailed. date~~
11 **determined as follows:**

12 (A) **If the person selected monthly installments under**
13 **IC 36-9-37-8.5(a)(1), within sixty (60) days after the date**
14 **the notice is mailed.**

15 (B) **If the person selected annual installments under**
16 **IC 36-9-37-8.5(a)(2), within six (6) months after the date**
17 **the notice is mailed.**

18 (b) A notice that is mailed to the person in whose name the property
19 is assessed and addressed to the person within the municipality is
20 sufficient notice. However, the fiscal officer shall also attempt to
21 determine the name and address of the current owner of the property
22 and send a similar notice to the current owner.

23 (c) Failure to send the notice required by this section does not
24 preclude or otherwise affect the following:

- 25 (1) The sale of the property for delinquency as prescribed by
26 IC 6-1.1-24.
- 27 (2) The foreclosure of the assessment lien by the bondholder.
- 28 (3) **The preservation of the assessment lien under section 22.5**
29 **of this chapter.**

30 SECTION 3. IC 36-9-37-22 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. **Except as**
32 **provided in section 22.5 of this chapter**, the following apply if at least
33 one (1) installment of an assessment is in default:

- 34 (1) The total amount of the assessment that remains unpaid is
35 considered to be in default.
- 36 (2) The assessed property is subject to sale under sections 23
37 through 24 of this chapter to pay that amount.
- 38 (3) **The assessment is subject to the:**
39 **(A) requirements and duties imposed;**
40 **(B) rights and remedies provided; and**
41 **(C) procedures available to the county treasurer;**
42 **for the collection of delinquent property taxes.**

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1 SECTION 4. IC 36-9-37-22.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: **Sec. 22.5. (a) The municipal fiscal
4 officer and the municipal works board may jointly establish
5 procedures allowing a municipality to avoid a sale, on property
6 that is not delinquent for property taxes, penalties, and other
7 special assessments, that:**

- 8 (1) is required under section 22 of this chapter; and
- 9 (2) would be conducted under IC 6-1.1-24;

10 **by preserving an assessment that is in default as a lien against the**
11 **property on which the assessment was imposed. A lien created**
12 **under this section applies to the total assessment principal, interest,**
13 **and penalties owed by the property owner on the date on which the**
14 **municipality determines that the assessment is in default.**

15 (b) Except as provided in subsection (c), an assessment
16 preserved as a lien under this section shall be paid by the person
17 liable for the assessment when ownership of the property is
18 transferred.

19 (c) The following apply to an assessment preserved as a lien
20 under this section:

- 21 (1) Additional penalties do not accrue to the lien after the date
22 described in subsection (a).
- 23 (2) The procedures established under subsection (a) must
24 specify when additional interest shall accrue to the lien after
25 the date described in subsection (a).
- 26 (3) The lien must be recorded.
- 27 (4) The amount owed by the property owner must be paid by
28 the person liable for the assessment before the final bond
29 maturity date.

30 (d) When the person liable pays an assessment preserved as a
31 lien under this section, the proceeds of the collection are subject to
32 the same requirements as the proceeds of a sale conducted under
33 section 24 of this chapter.

34 SECTION 5. IC 36-9-37-25 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. (a) To avoid a**
36 **foreclosure action on a special assessment, a municipality may:**

- 37 (1) **defer collection of the assessment under section 22.5 of this**
38 **chapter; or**
- 39 (2) accept a conveyance in satisfaction of the assessment from the
40 owner of the assessed property.

41 (b) If there are bondholders other than the municipality holding
42 bonds on the improvement for which the assessment was made, the

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1 municipality may do any of the following:
2 (1) Join with the other bondholders in accepting a conveyance of
3 an undivided interest in the property.
4 (2) Cause a conveyance of the property to be made to a bank or
5 trust company in the municipality and held under a trust
6 agreement by the bank or trust company for the use and benefit of
7 the municipality and the other bondholders.
8 (c) A conveyance under this section may be accepted by the
9 municipality only if the head of the municipal legal department makes
10 a written recommendation to the city executive or town legislative body
11 that the conveyance be accepted.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1218, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MOSES, Chair

Committee Vote: yeas 13, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1218 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new line block indented and insert:

"(6) Sanitary sewers."

Page 2, line 6, strike "six (6) months" and insert **"the number of months the person is in default"**.

Page 2, line 9, strike "following May 10 or November 10 after the notice is mailed." and insert **"date determined as follows:**

(A) If the person selected monthly installments under IC 36-9-37-8.5(a)(1), within sixty (60) days after the date the notice is mailed.

(B) If the person selected annual installments under IC 36-9-37-8.5(a)(2), within six (6) months after the date the notice is mailed."

(Reference is to HB 1218 as printed January 30, 2004.)

SUMMERS

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1218, 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:

Page 3, line 5, after "sale" insert "**, on property that is not delinquent for property taxes, penalties, and other special assessments,**".

Page 3, line 14, delete "is subject to collection by the".

Page 3, line 15, delete "county treasurer" and insert "**shall be paid by the person liable for the assessment**".

Page 3, line 24, delete "collected".

Page 3, line 25, delete "by the county treasurer" and insert "**paid by the person liable for the assessment**".

Page 3, line 26, delete "county treasurer collects" and insert "**person liable pays**".

and when so amended that said bill do pass.

(Reference is to HB 1218 as reprinted February 5, 2004.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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