

---

---

# HOUSE BILL No. 1374

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-22; IC 6-1.1-45.

**Synopsis:** Deferral of property tax payments. Allows a taxpayer who meets income, net worth, and either age or disability requirements to defer payment of the taxpayer's property tax liability on the taxpayer's principal place of residence (excluding amounts for which the taxpayer would have been eligible for a credit if the taxpayer had filed for it) until the taxpayer dies, sells the property, or otherwise becomes ineligible to defer the taxes. Requires a county to deposit money collected from deferred taxes in a county tax deferral revolving fund. Provides for replacement of deferred taxes through distributions from the state and transfers from a county tax deferral revolving fund. Makes an appropriation.

**Effective:** July 1, 2004.

---

---

### Thompson

---

---

January 20, 2004, read first time and referred to Committee on Ways and Means.

---

---

C  
o  
p  
y



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.

C  
o  
p  
y

# HOUSE BILL No. 1374



A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

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

1 SECTION 1. IC 6-1.1-22-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. On or before March  
3 15 of each year, the county auditor shall prepare and deliver to the  
4 auditor of state and the county treasurer:

5 (1) a certified copy of an abstract of the property, assessments,  
6 taxes, deductions, ~~and~~ exemptions, **and tax deferrals under**  
7 **IC 6-1.1-45** for taxes payable in that year in each taxing district  
8 of the county;

9 (2) **the amount available in the county tax deferral**  
10 **replacement fund for the replacement of property taxes**  
11 **subject to tax deferral; and**

12 (3) **the net amount of the tax deferrals under IC 6-1.1-45 that**  
13 **exceed the amount available in the county tax deferral**  
14 **replacement fund for the replacement of property taxes**  
15 **subject to tax deferral.**

16 A copy of that part of the abstract dealing with tax deferrals under  
17 IC 6-1.1-45 and the information described in subdivisions (2) and



1 **(3) shall be delivered to the department of state revenue.** The county  
 2 auditor shall prepare the abstract in such a manner that the information  
 3 concerning property tax deductions reflects the total amount of each  
 4 type of deduction. The abstract shall also contain a statement of the  
 5 taxes and penalties unpaid in each taxing unit at the time of the last  
 6 settlement between the county auditor and county treasurer and the  
 7 status of these delinquencies. The county auditor shall prepare the  
 8 abstract on the form prescribed by the state board of accounts. The  
 9 auditor of state, county auditor, and county treasurer shall each keep a  
 10 copy of the abstract in his office as a public record.

11 SECTION 2. IC 6-1.1-22-8 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The county  
 13 treasurer shall either:

14 (1) mail to the last known address of each person liable for any  
 15 property taxes or special assessment, as shown on the tax  
 16 duplicate or special assessment records, or to the last known  
 17 address of the most recent owner shown in the transfer book a  
 18 statement of current and delinquent taxes and special  
 19 assessments; or

20 (2) transmit by written, electronic, or other means to a mortgagee  
 21 maintaining an escrow account for a person who is liable for any  
 22 property taxes or special assessments, as shown on the tax  
 23 duplicate or special assessment records, a statement of current  
 24 and delinquent taxes and special assessments.

25 (b) The county treasurer may include the following in the statement:

26 (1) An itemized listing for each property tax levy, including:

- 27 (A) the amount of the tax rate;  
 28 (B) the entity levying the tax owed; and  
 29 (C) the dollar amount of the tax owed.

30 (2) Information designed to inform the taxpayer or mortgagee  
 31 clearly and accurately of the manner in which the taxes billed in  
 32 the tax statement are to be used.

33 **(c) After December 31, 2004, the county treasurer shall include**  
 34 **the following in a statement for residential real property:**

35 **(1) Information concerning the tax deferral program required**  
 36 **by IC 6-1.1-45-5.**

37 **(2) The total of property taxes deferred on real property**  
 38 **under IC 6-1.1-45 in the current year, if the amount is greater**  
 39 **than zero (0).**

40 **(3) The cumulative total of property taxes deferred on real**  
 41 **property under IC 6-1.1-45 in the current year and all prior**  
 42 **years, if the amount is greater than zero (0).**

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**(4) The cumulative total of interest that has accrued on the amount described in subdivision (3) under IC 6-1.1-45, if the amount is greater than zero (0).**

**(d)** A form used and the method by which the statement and information, if any, are transmitted must be approved by the state board of accounts. The county treasurer may mail or transmit the statement and information, if any, one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

~~(c)~~ **(e)** All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

SECTION 3. IC 6-1.1-22-9, AS AMENDED BY P.L.1-2004, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Except as provided in IC 6-1.1-7-7, **IC 6-1.1-45**, section 9.5 of this chapter, and subsection (b), the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) A county council may adopt an ordinance to require a person to pay ~~his~~ **the person's** property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars (\$25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars (\$25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(c) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(d) Notwithstanding any other law, a property tax liability of less than five dollars (\$5) is increased to five dollars (\$5). The difference between the actual liability and the five dollar (\$5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

C  
o  
p  
y



1 SECTION 4. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE  
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]:

4 **Chapter 45. Senior and Disabled Individuals Property Tax**  
5 **Deferral Program**

6 **Sec. 1. As used in this chapter, "income" means total gross**  
7 **income from all sources, without regard to whether a tax return is**  
8 **actually filed. The term does not include life insurance benefits or**  
9 **receipts from borrowing or other debt.**

10 **Sec. 2. As used in this chapter, "permanently and totally**  
11 **disabled" means unable to engage in any substantial gainful**  
12 **activity by reason of any medically determinable physical or**  
13 **mental impairment or deformity that can be expected to last for**  
14 **the duration of the person's life.**

15 **Sec. 3. As used in this chapter, "qualifying real property" refers**  
16 **to real property that:**

- 17 (1) is owned and occupied as required under this chapter for
- 18 a tax deferral; and
- 19 (2) otherwise qualifies for a tax deferral under this chapter.

20 **Sec. 4. A person may defer, in accordance with this chapter, the**  
21 **payment of the property taxes (but not special assessments)**  
22 **assessed against qualifying real property.**

23 **Sec. 5. A county treasurer shall enclose with the statement**  
24 **required under IC 6-1.1-22-8 provided for residential real property**  
25 **a description of the terms and conditions of the deferral program**  
26 **established by this chapter. The county treasurer shall employ any**  
27 **other reasonable means necessary to notify residents about the**  
28 **terms and conditions of the tax deferral program.**

29 **Sec. 6. (a) Subject to subsections (b) and (c), for real property to**  
30 **qualify for tax deferral under this chapter, all of the owners of the**  
31 **real property must:**

- 32 (1) occupy the real property as their principal place of
- 33 residence; and
- 34 (2) be:
  - 35 (A) at least sixty-five (65) years of age (or will be at least
  - 36 sixty-five years (65) of age in the year when tax liability
  - 37 being deferred is first due and payable); or
  - 38 (B) permanently and totally disabled.

39 **(b) Real property qualifies for tax deferral under this chapter**  
40 **if:**

- 41 (1) the property is jointly owned by a husband and wife;
- 42 (2) both spouses occupy the real property as their principal

**C**  
**O**  
**P**  
**Y**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

place of residence; and

(3) either spouse:

(A) is at least sixty-five (65) years of age (or will be at least sixty-five years (65) of age in the year when tax liability being deferred is first due and payable); or

(B) is permanently and totally disabled.

(c) The fact that a person who otherwise qualifies for tax deferral is residing in a hospital, a nursing home, a convalescent home, or another facility for physical or mental care for extended periods shall not be construed to mean that the real property for which tax deferral is sought does not continue to be the principal place of residence of the person during any time during which the real property is not used by or leased to others for consideration.

Sec. 7. The following is the only real property eligible for tax deferral under this chapter:

(1) Residential real property improvements that are used as described in section 6 of this chapter, including a house or garage.

(2) Not more than one (1) acre of land that immediately surrounds the residential real property improvements and is used for residential purposes.

Sec. 8. (a) Subject to subsections (c), (d), and (e), real property is ineligible for tax deferral under this chapter if the total combined income received from all sources by the:

(1) owners of the real property who use it as their principal place of residence; and

(2) owners' relatives who live at the real property;

during the calendar year immediately preceding the year in which an assessment date occurs for taxes being deferred under this chapter exceeds the amount determined under subsection (b).

(b) The amount used in determining eligibility under subsection (a) is the greater of:

(1) thirty thousand dollars (\$30,000); or

(2) the income limit:

(A) set for a household of the same size in the metropolitan statistical area (or other area prescribed by the department of local government finance) where the real property is located; and

(B) annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance under Section 235 of the National Housing Act (12 U.S.C. 1715z).

C  
O  
P  
Y



1           (c) Six thousand five hundred dollars (\$6,500) of income of each  
2 relative who:  
3           (1) is not the spouse of an owner living at the real property;  
4           and  
5           (2) does not qualify for the exemption provided by subsection  
6           (e);  
7 is exempt from consideration in determining total combined  
8 income under subsection (a).  
9           (d) Seven thousand five hundred dollars (\$7,500) of income of  
10 an owner who is permanently and totally disabled is exempt from  
11 consideration in determining total combined income under  
12 subsection (a).  
13           (e) If a person:  
14           (1) can prove by clear and convincing evidence that:  
15           (A) the person's physical or mental health has deteriorated  
16           to the point that the only alternative to permanently  
17           residing in a hospital, nursing home, convalescent home, or  
18           other facility for physical or mental care is to have a  
19           relative move in and provide care for the person; and  
20           (B) a relative moves in for the purpose described in clause  
21           (A); and  
22           (2) otherwise qualifies for a deferral under this chapter;  
23 all of the income of the relative and the relative's spouse is exempt  
24 from consideration in determining total combined income under  
25 subsection (a).  
26           Sec. 9. (a) Subject to subsections (b) and (c), real property is  
27 ineligible for tax deferral under this chapter if the net combined  
28 financial worth, including the present value of all equitable  
29 interests, of:  
30           (1) the owners of the real property who use it as their  
31           principal place of residence; and  
32           (2) the spouse of any owner;  
33 on December 31 of the calendar year immediately preceding the  
34 year in which an assessment date occurs for taxes being deferred  
35 under this chapter exceeds one hundred fifty thousand dollars  
36 (\$150,000).  
37           (b) The value of the qualified real property may not be  
38 considered in determining net combined financial worth under  
39 subsection (a).  
40           (c) Household furnishings for a dwelling on the qualified real  
41 property, such as furniture, household appliances, and other items  
42 typically used in a home, may not be considered in determining net

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

combined financial worth under subsection (a).

**Sec. 10. Real property is ineligible for tax deferral under this chapter if any owner of the real property is delinquent on any part of property taxes or special assessments for the real property for which deferral is sought.**

**Sec. 11. (a) The department of local government finance shall prescribe forms for use under this section.**

**(b) Subject to subsection (c), real property is not eligible for tax deferral under this chapter unless a person annually files an application, on forms supplied by the county auditor, with the county auditor for the county in which the real property is located. The application must be made under oath or affirmation and include the following information:**

- (1) The names of the related persons occupying the real property.**
- (2) The names of all owners of the real property.**
- (3) The combined total income from all sources of the persons specified in section 8 of this chapter.**
- (4) The total combined net financial worth, including equitable interests, of the persons specified in section 9 of this chapter.**
- (5) Any other information required by the department of local government finance.**

**(c) If a county auditor elects to apply this subsection to the county served by the county auditor, a person applying for a tax deferral in that county may:**

- (1) file the application required under subsection (b) on a three (3) year cycle; and**
- (2) in the intervening years file an annual certification under oath or affirmation that:**
  - (A) contains a statement that no information contained on the most recently filed application has changed in a manner that makes the real property ineligible for tax deferral under this chapter; and**
  - (B) includes any other information required by the department of local government finance.**

**Applications and annual certifications filed under this subsection must be filed on forms supplied by the county auditor.**

**Sec. 12. (a) Subject to subsection (b), if a person is less than sixty-five (65) years of age, an application filed under section 11(b) or section 11(c)(1) of this chapter must be submitted with:**

- (1) a certification by the United States Social Security**

**C  
O  
P  
Y**





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

Administration, the Indiana department of veterans affairs, the United States Department of Veterans Affairs, or the United States Railroad Retirement Board that indicate that each owner that is required to be permanently and totally disabled to receive a tax deferral is permanently and totally disabled; or

(2) if the person is not eligible for certification by any of the agencies described in subdivision (1), an affidavit made under oath or affirmation by two (2) physicians who are:

- (A) licensed to practice medicine in Indiana; or
- (B) military officers on active duty who practice medicine with any branch of the United States Armed Forces;

to the effect that the person is permanently and totally disabled and that the determination is based on examinations and information that meet or exceed the requirements under subsection (c).

(b) A person who submits a certification issued under 42 U.S.C. 423(d) by the United States Social Security Administration shall be treated as meeting the requirements of subsection (a) and section 6(a)(2)(B) of this chapter so long as the person remains eligible for the Social Security benefits.

(c) To meet the requirements of subsection (a)(2), the affidavit of at least one (1) of the physicians must be based on a physical examination of the person by the physician. The affidavit of one (1) of the physicians may be based on medical information contained in records of the United States Civil Service Commission that are relevant to the standards for determining permanent and total disability.

Sec. 13. (a) Subject to subsections (b) and (c), documents described in sections 11 and 12 of this chapter must be filed:

- (1) after January 1; and
- (2) before March 1;

in a year.

(b) A county auditor may allow a later filing:

- (1) by first time applicants; and
- (2) for hardship cases.

(c) First time applicants may file an application while they are sixty-four (64) years of age so their deferral will become effective during the taxable year when they become sixty-five (65) years of age.

Sec. 14. (a) A county auditor shall grant a tax deferral for taxes imposed on real property that qualifies for the tax deferral under

**C**  
**O**  
**P**  
**Y**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

sections 6 through 13 of this chapter.

(b) Before granting the tax deferral, the county auditor may make any reasonably necessary inquiry of an applicant, requiring answers under oath or affirmation, to determine whether real property is eligible for tax deferral under this chapter.

(c) Inquiries under subsection (b) may include inquiries about life insurance benefits paid upon the death of an owner of otherwise qualified real property.

(d) A county auditor may require an applicant to produce certified tax returns to establish combined total income or total combined net financial worth.

(e) The county auditor shall give written notice of the approval of a tax deferral to the following in the form prescribed by the department of local government finance:

- (1) The county treasurer.
- (2) The applicant for the tax deferral.

Sec. 15. Subject to section 19 of this chapter, a tax deferral granted for an application or annual certification that is filed within the time allowed under section 13(a) of this chapter, as extended by any period allowed under section 13(b) of this chapter, applies to property taxes first due and payable in:

- (1) the year immediately following the year the application or annual certification is due under section 13(a) of this chapter; or
- (2) any other period determined by the department of local government finance, if a due date that would otherwise apply under IC 6-1.1-22-9 in that year is extended.

Sec. 16. The amount eligible for deferral in a year under this chapter is equal to the property taxes first due and payable in the year for qualified real property after applying the part of all credits for which the person responsible for paying the taxes would be eligible, regardless of whether the person has applied for the credits. If a credit is applicable both to qualified real property and other property, the credit shall be apportioned to the qualified real property in proportion to the relative assessed value of the qualified real property or any other method that provides for a just allocation of the credit to the qualified real property.

Sec. 17. (a) Subject to subsection (b), deferred property taxes constitute a lien on the qualified real property to the same extent as if they had been assessed without regard to the tax deferral permitted under this chapter. The lien attaches at the same time that the lien would have attached if the taxes had not been

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

deferred.

(b) The lien, to the extent that it exceeds, in total, ten percent (10%) of the fair market value of the qualified real property, is inferior to all other liens of record.

Sec. 18. An amount that is deferred under this chapter is subject to interest computed at the federal short term rate determined under Section 6621 of the Internal Revenue Code for one (1) year following the date that the amount would otherwise be due if payment of the tax liability had not been deferred. The deferred amount and interest is not subject to interest in subsequent years as long as the deferral stays continuously in effect.

Sec. 19. A grant of a tax deferral under this chapter is nullified if changes in income, net combined financial worth, ownership of property, or other factors occur before or during the taxable year for which an application or annual certification is filed that have the effect of exceeding or violating the limitations and conditions of the tax deferral.

Sec. 20. (a) Subject to sections 21 and 22 of this chapter, the accumulated amount of property taxes that is deferred under this chapter, plus interest at the rate determined under section 18 of this chapter, is first due and payable to the county treasurer of the county where the qualified real property is located on the earlier of:

- (1) the date that the qualified real property is sold; or
- (2) one (1) year after the last owner who qualifies for a tax deferral under this chapter dies.

(b) Deferred property taxes are not subject to penalty if paid not later than the due date determined under this section.

Sec. 21. If:

- (1) the qualified real property is owned jointly; and
- (2) all the owners are qualified for a tax deferral under this chapter before the death of a joint owner;

the death of a joint owner does not disqualify the survivor or survivors from continued tax deferrals.

Sec. 22. If the real property ceases to qualify for tax deferral under this chapter for any reason other than the occurrence of an event described in section 20 of this chapter, accumulated deferred tax and interest is first due and payable on the later of:

- (1) the next regular installment date determined under IC 6-1.1-22-9 after the disqualifying event occurs; or
- (2) the regular installment date when the property tax would otherwise be first due and payable as determined without

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

regard to this chapter.

**Sec. 23.** An amount that is not paid by the date that it is due under this chapter shall be treated as delinquent taxes. The penalties provided for the failure to pay delinquent taxes begin to accrue after the next regular installment date for property taxes that are first due and payable in that year.

**Sec. 24.** Upon receipt of a payment of deferred taxes and interest, regardless of whether the payment is voluntarily made or made as the result of an action to collect delinquent taxes, the county treasurer shall deposit the amount collected in a county tax deferral revolving fund. Money in the county tax deferral revolving fund may be used only under section 27 of this chapter to replace taxes subject to deferral.

**Sec. 25.** For purposes of computing the ad valorem property tax levy limits or tax rate limits imposed under IC 6-1.1-18.5-3 or another provision, a taxing unit's ad valorem property tax levy for a particular calendar year includes that part of the levy deferred under this chapter in the year that it is deferred.

**Sec. 26. (a)** The department of state revenue shall distribute from the state general fund to the county treasurer an amount equal to the amount of the deferred taxes certified under IC 6-1.1-22-5 for the year, less the amount in the county's tax deferral revolving fund that is available to replace taxes subject to deferral.

**(b)** The distributions shall be made on the same schedule as property tax replacement credits under IC 6-1.1-21-4 and IC 6-1.1-21-10.

**(c)** The amounts distributed under subsection (a) shall be treated as an estimated distribution to replace deferred taxes. Any error in the amount distributed under this section shall be corrected on the next settlement date after the error is discovered.

**(d)** The amounts necessary to make the distributions required by this section are annually appropriated from the state general fund.

**Sec. 27. (a)** A county treasurer shall distribute the sum of:

**(1)** the amounts distributed from the state under section 26 of this chapter; and  
**(2)** the amount in the county's tax deferral revolving fund that is available to replace taxes subject to deferral;  
among taxing units as if the amounts had been collected as property taxes.

**(b)** An amount distributed under this section is available for use

**C  
O  
P  
Y**



1 by a taxing unit to the same extent and in the same manner as if the  
2 amount had been collected as taxes.  
3 (c) Any error in the amount distributed under this section shall  
4 be corrected on the next settlement date after the error is  
5 discovered.  
6 SECTION 5. [EFFECTIVE JULY 1, 2004] IC 6-1.1-45, as added  
7 by this act, applies only to property taxes first due and payable  
8 after December 31, 2004. County auditors are encouraged to  
9 exercise their powers under IC 6-1.1-45-13(b), as added by this act,  
10 to facilitate the implementation of IC 6-1.1-45, as added by this act,  
11 for property taxes first due and payable in 2005.

**C  
o  
p  
y**

