

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 496 be amended to read as follows:

- 1 Page 17, between lines 9 and 10, begin a new paragraph and insert:
- 2 "SECTION 16. IC 4-31-9-8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. No tax or fee, except
- 4 as provided in this article, shall be assessed or collected from a permit
- 5 holder by a political subdivision having the power to assess or collect
- 6 a tax or fee. This section does not apply to **fees under IC 36-13** or real
- 7 or personal property taxes imposed by a local taxing unit."
- 8 Page 112, between lines 30 and 31, begin a new paragraph and
- 9 insert:
- 10 "SECTION 78. IC 36-13 IS ADDED TO THE INDIANA CODE
- 11 AS A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2005]:
- 13 **ARTICLE 13. PUBLIC SERVICES USER FEES**
- 14 **Chapter 1. Application**
- 15 **Sec. 1. This article applies only if the county fiscal body adopts**
- 16 **an ordinance to apply this article in the county.**
- 17 **Sec. 2. This article applies to the owner of each building or other**
- 18 **real property improvement subject to assessment under IC 6-1.1-4.**
- 19 **Sec. 3. (a) Except as provided in subsection (b), a fee imposed**
- 20 **under this article applies to all property referred to in section 2 of**
- 21 **this chapter that is subject to assessment under IC 6-1.1-4,**
- 22 **regardless of whether the property is exempt from ad valorem**
- 23 **property taxes.**
- 24 **(b) A fee imposed under this article does not apply to property**
- 25 **referred to in section 2 of this chapter that is:**

- 1 (1) exempt from ad valorem property taxes; and
- 2 (2) owned by a church or religious society.

3 **Chapter 2. Imposition and Distribution**

4 **Sec. 1. Fees imposed under this article are treated as ad valorem**  
5 **property taxes for the purpose of distributions under the following:**

- 6 (1) IC 6-1.1-21.
- 7 (2) IC 6-3.5.
- 8 (3) IC 6-5.5.
- 9 (4) IC 6-6-5.
- 10 (5) Any other law that computes a distribution based on the
- 11 assessed value of tangible property or on the property tax levy
- 12 imposed.

13 **Sec. 2. The department of local government finance shall**  
14 **provide the information necessary for the department of state**  
15 **revenue and county auditors to make the distributions described in**  
16 **section 1 of this chapter.**

17 **Sec. 3. Fees imposed under this article are billed and collected**  
18 **in the same manner and at the same time that property taxes are**  
19 **billed and collected.**

20 **Sec. 4. The county auditor shall distribute to a political**  
21 **subdivision in which a property subject to the fee imposed under**  
22 **this article is located the part of the fee collected with respect to the**  
23 **property that bears the same proportion to the total amount of the**  
24 **fee collected with respect to the property that the tax rate imposed**  
25 **by the political subdivision bears to the total property tax rate in**  
26 **the taxing district in which the property is located.**

27 **Sec. 5. The maximum property tax levy that a political**  
28 **subdivision may impose for a budget year under IC 6-1.1-18.5 or**  
29 **IC 6-1.1-19 is reduced by the amount of fees imposed by the**  
30 **political subdivision under section 4 of this chapter for the budget**  
31 **year.**

32 **Sec. 6. A political subdivision may use revenue from fee**  
33 **collections in the same manner that the political subdivision uses**  
34 **revenue from property tax collections.**

35 **Chapter 3. Fees**

36 **Sec. 1. Fees imposed by a county under this chapter apply to the**  
37 **owner of each building or other real property improvement in the**  
38 **county subject to assessment under IC 6-1.1-4.**

- 39 **Sec. 2. The fees may be determined based on the following:**
- 40 (1) A flat charge for each building or other real property
  - 41 improvement.
  - 42 (2) The amount of public services used.
  - 43 (3) Whether the county is required to purchase or lease special
  - 44 facilities or equipment to deliver public services to the
  - 45 property.
  - 46 (4) A combination of these or other factors that the county

1           fiscal body determines is necessary to establish just and  
2           equitable fees.

3           **Sec. 3. The fees do not have to be uniform throughout the county**  
4           **or for all users of public services. The county fiscal body may**  
5           **exercise reasonable discretion in:**

- 6           (1) adopting different schedules of fees; or  
7           (2) making classifications in schedules of fees:  
8           (A) based on variations in the costs of furnishing the  
9           services, including capital expenditures required, to  
10          various classes of users of public services or to various  
11          locations in the county; or  
12          (B) where there are variations in the number of users in  
13          various locations in the county.

14          **Sec. 4. If public services will not be provided until after a capital**  
15          **improvement is completed, a county may bill and collect fees for**  
16          **the services to be provided after the contract for construction of the**  
17          **capital improvement has been let and actual work commenced in**  
18          **an amount sufficient to meet the interest on the revenue bonds and**  
19          **other expenses payable before the completion of the capital**  
20          **improvement.**

21          **Sec. 5. Unless the county fiscal body finds and directs otherwise,**  
22          **public services are considered to benefit every building or other**  
23          **real property improvement in the county. The fees shall be billed**  
24          **and collected accordingly.**

25          **Sec. 6. (a) The county fiscal body may, by ordinance, establish**  
26          **just and equitable fees for the use of public services provided in the**  
27          **county.**

28          **(b) The county fiscal body may periodically change and readjust**  
29          **the fees as provided in this article.**

30          **Sec. 7. The initial fees may be established only after a public**  
31          **hearing at which all:**

- 32          (1) the property owners in the county; and  
33          (2) others interested;  
34          **have an opportunity to be heard concerning the proposed fees.**

35          **Sec. 8. After introduction of the ordinance initially establishing**  
36          **fees but before the ordinance is finally adopted, notice of the**  
37          **hearing setting forth the proposed schedule of fees must be given**  
38          **by publication one (1) time each week for two (2) weeks in a**  
39          **newspaper of general circulation in the county. The last publication**  
40          **must be at least seven (7) days before the date fixed in the notice for**  
41          **the hearing. The hearing may be adjourned as necessary.**

42          **Sec. 9. (a) The ordinance establishing the initial fees, either as:**

- 43          (1) originally introduced; or  
44          (2) modified and amended;  
45          **must be passed and put into effect after the hearing.**  
46          **(b) A copy of the schedule of the fees established must be:**

- 1           (1) kept on file in the office of the county auditor; and  
 2           (2) open to public inspection.

3           **Sec. 10. (a)** The fees established for a class of users of property  
 4 served shall be extended to cover any additional property served  
 5 after the fees are established that are in the same class without the  
 6 necessity of hearing or notice.

7           **(b)** A change or readjustment of the fees may be made in the  
 8 same manner as the fees were originally established.

9           **Chapter 4. Liens for Fees**

10          **Sec. 1.** The fees made, assessed, or established under this article  
 11 against a building or other real property improvement in the  
 12 county is a lien against the building or other real property  
 13 improvement.

14          **Sec. 2.** Except as provided in sections 5 and 6 of this chapter, a  
 15 lien attaches at the time of the recording of the list in the county  
 16 recorder's office as provided in IC 36-13-5. The lien:

- 17           (1) is superior to and takes precedence over all other liens  
 18 except the lien for taxes; and  
 19           (2) shall be enforced under this article.

20          **Sec. 3.** If fees are not paid by the due date, the fees become  
 21 delinquent and a penalty of ten percent (10%) of the amount of the  
 22 fees attaches to the fees. The county may recover:

- 23           (1) the amount due;  
 24           (2) the penalty; and  
 25           (3) reasonable attorney's fees;

26 in a civil action in the name of the county.

27          **Sec. 4.** The fees, together with the penalty, are collectible in the  
 28 manner provided by this article.

29          **Sec. 5. (a)** A fee is not enforceable as a lien against a subsequent  
 30 owner of property unless the lien for the fee was recorded with the  
 31 county recorder before the conveyance to the subsequent owner.

32          **(b)** If the property is conveyed before the lien can be filed, the  
 33 officer of the county who is charged with the collection of the fee  
 34 shall notify the person who owned the property at the time the fee  
 35 became payable. The notice must inform the person that payment,  
 36 including penalty for delinquencies, is due not less than fifteen (15)  
 37 days after the date of the notice. If payment is not received before  
 38 one hundred eighty (180) days after the date of the notice have  
 39 elapsed, the amount due may be expensed as a bad debt loss.

40          **Sec. 6. (a)** This section applies whenever a property owner has  
 41 notified the county by certified mail with return receipt requested  
 42 of the address to which the owner's notice is to be sent.

43          **(b)** A lien does not attach against a building or other real  
 44 property improvement occupied by someone other than the owner  
 45 unless the officer of the county who is charged with the collection  
 46 of fees notifies the owner of the property after the fees have become

1 sixty (60) days delinquent.

2 Sec. 7. (a) The county shall release:

3 (1) liens filed with the county recorder after the recorded date  
4 of conveyance of the property; and

5 (2) delinquent fees incurred by the seller;

6 on receipt of a verified demand in writing from the purchaser.

7 (b) The demand must state the following:

8 (1) That the delinquent fees were not incurred by the  
9 purchaser as a user, lessee, or previous owner.

10 (2) That the purchaser has not been paid by the seller for the  
11 delinquent fees.

12 Chapter 5. Enforcement of Delinquencies

13 Sec. 1. This chapter applies only to fees or penalties that have  
14 been due and unpaid for at least ninety (90) days.

15 Sec. 2. The county treasurer shall enforce the payment of fees  
16 and penalties imposed under this article. The officer shall, not more  
17 than two (2) times in a year, prepare a list of the delinquent fees,  
18 including the amount of the penalty, that are enforceable under this  
19 chapter. The list must include the following:

20 (1) The name of each owner of each building or other real  
21 property improvement on which the fees have become  
22 delinquent.

23 (2) The description of the property as shown by the records of  
24 the office of the county auditor.

25 (3) The amount of the fees, together with the amount of the  
26 penalty.

27 Sec. 3. (a) The county treasurer shall record a copy of the list in  
28 the office of the county recorder.

29 (b) The county recorder shall charge a fee for recording the list  
30 in accordance with the fee schedule established in IC 36-2-7-10.

31 (c) After recording the list, the county treasurer shall mail to  
32 each property owner on the list a notice stating that a lien against  
33 the owner's property has been recorded.

34 (d) This subsection applies only to a county that does not contain  
35 a consolidated city. A service charge of five dollars (\$5), which is in  
36 addition to the recording fee charged under this section and section  
37 6 of this chapter, shall be added to each delinquent fee that is  
38 recorded.

39 Sec. 4. (a) This section applies only to a county containing a  
40 consolidated city.

41 (b) Using the lists prepared and recorded under sections 2 and  
42 3 of this chapter, the county treasurer shall certify to the county  
43 auditor a list of the liens that remain unpaid according to the  
44 following schedule:

45 (1) Liens recorded on or after August 1 of the preceding year  
46 and before February 1 of the current year shall be certified

1           **before March 1 of each year for collection in May of the same**  
 2           **year.**

3           **(2) Liens recorded on or after February 1 of the current year**  
 4           **and before August 1 of the current year shall be certified**  
 5           **before September 1 of each year for collection in November of**  
 6           **the same year.**

7           **(c) The county and the officers and employees of the county are**  
 8           **not liable for any material error in the information on the list**  
 9           **prepared under subsection (b).**

10          **Sec. 5. (a) This section applies only to a county that does not**  
 11          **contain a consolidated city.**

12          **(b) Using the lists prepared and recorded under sections 2 and**  
 13          **3 of this chapter:**

14               **(1) after April 1 of the preceding year; and**

15               **(2) before April 1 of the current year;**

16          **the county treasurer shall before June 1 of each year certify to the**  
 17          **county auditor a list of the liens that remain unpaid for collection**  
 18          **in the next November.**

19          **(c) The county and the officers and employees of the county are**  
 20          **not liable for any material error in the information on the list.**

21          **Sec. 6. (a) The county treasurer shall release a recorded lien**  
 22          **when the:**

23               **(1) delinquent fees;**

24               **(2) penalties;**

25               **(3) service charges; and**

26               **(4) recording fees;**

27          **have been fully paid.**

28          **(b) The county recorder shall charge a fee for releasing the lien**  
 29          **in accordance with IC 36-2-7-10.**

30          **Sec. 7. (a) This subsection applies to a county that does not**  
 31          **contain a consolidated city. On receipt of the list under section 5 of**  
 32          **this chapter, the county auditor shall add a fifteen dollar (\$15)**  
 33          **certification fee for each lot or parcel of real property on which fees**  
 34          **are delinquent. The certification fee is in addition to all other fees**  
 35          **and fees. The county auditor shall immediately enter on the tax**  
 36          **duplicate for the municipality the:**

37               **(1) delinquent fees;**

38               **(2) penalties;**

39               **(3) service charges;**

40               **(4) recording fees; and**

41               **(5) certification fees;**

42          **that are due not later than the due date of the next November**  
 43          **installment of property taxes.**

44          **(b) This subsection applies to a county having a consolidated**  
 45          **city. On receipt of the list under section 4 of this chapter, the**  
 46          **county auditor shall enter on the tax duplicate the:**

1           (1) delinquent fees;  
 2           (2) penalties;  
 3           (3) service charges; and  
 4           (4) recording fees;  
 5           that are due not later than the due date of the next installment of  
 6           property taxes.

7           (c) The county treasurer shall include any unpaid charges for  
 8           the:

9           (1) delinquent fee;  
 10          (2) penalty;  
 11          (3) service charge;  
 12          (4) recording fee; and  
 13          (5) certification fee;  
 14          for each owner of each lot or parcel of property at the time the next  
 15          cycle's property tax installment is billed.

16          Sec. 8. (a) This section does not apply to a county containing a  
 17          consolidated city.

18          (b) After June 1 of each year, the county treasurer may not  
 19          collect or accept:

20          (1) delinquent fees;  
 21          (2) penalties;  
 22          (3) service charges;  
 23          (4) recording fees; or  
 24          (5) certification fees;  
 25          from property owners whose property has been certified to the  
 26          county auditor.

27          Sec. 9. If a:

28          (1) delinquent fee;  
 29          (2) penalty;  
 30          (3) service charge;  
 31          (4) recording fee; or  
 32          (5) certification fee;  
 33          is not paid, the county treasurer shall collect the unpaid money in  
 34          the same way that delinquent property taxes are collected.

35          Sec. 10. (a) At the time of each semiannual tax settlement, the  
 36          county treasurer shall certify to the county auditor all:

37          (1) fees;  
 38          (2) service charges; and  
 39          (3) penalties;  
 40          that have been collected.

41          (b) The county auditor shall:

42          (1) deduct the service charges and certification fees collected  
 43          by the county treasurer; and  
 44          (2) pay to the county treasurer the remaining fees and  
 45          penalties due the county.

46          (c) The county treasurer shall:

- 1           **(1) retain the service charges and certification fees that have**
- 2           **been collected; and**
- 3           **(2) deposit the charges and fees in the county general fund.**

4           **Sec. 11. (a) This section applies to a:**

- 5           **(1) fee;**
- 6           **(2) penalty; or**
- 7           **(3) service charge;**

8           **that was not recorded before a recorded conveyance.**

9           **(b) The:**

- 10           **(1) fee;**
- 11           **(2) penalty; or**
- 12           **(3) service charge;**

13           **shall be removed from the tax roll for a purchaser who, in the**  
 14           **manner prescribed by IC 36-13-4-7, files a verified demand with**  
 15           **the county auditor.**

16           **Chapter 6. Foreclosure of Liens**

17           **Sec. 1. A county may, as an additional or alternative remedy,**  
 18           **foreclose a lien established by this article as a means of collection**  
 19           **of fees, including the penalty on the fees.**

20           **Sec. 2. (a) In all actions brought to foreclose the liens, the county**  
 21           **is entitled to recover the following:**

- 22           **(1) The amount of the fees.**
- 23           **(2) The penalty on the fees.**
- 24           **(3) Reasonable attorney's fees.**

25           **(b) The court shall order that the sale be made without relief**  
 26           **from valuation or appraisal statutes.**

27           **Sec. 3. Except as otherwise provided by this article, the following**  
 28           **apply in all actions to foreclose the liens:**

- 29           **(1) The laws concerning municipal public improvement**  
 30           **assessments.**
- 31           **(2) The rights, remedies, procedure, and relief granted the**  
 32           **parties to the action."**

33           Page 119, between lines 11 and 12, begin a new paragraph and  
 34           insert:

35           **"SECTION 96. [EFFECTIVE JULY 1, 2005] IC 36-13, as added**  
 36           **by this act, applies only to budget years beginning after December**  
 37           **31, 2005."**

38           Renumber all SECTIONS consecutively.  
 (Reference is to ESB 496 as printed April 1, 2005.)

---

Representative Aguilera