

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 496 be recommitted to a Committee of One, its sponsor, with specific instructions to amend 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 29 and 30, 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. Definitions**
- 15 **Sec. 1. For purposes of this article, "other residential real**
- 16 **property" means:**
- 17 **(1) a mobile home or manufactured home assessed as real**
- 18 **property; and**
- 19 **(2) the parcel on which the mobile home or manufactured**
- 20 **home is located.**
- 21 **Sec. 2. For purposes of this article, "other residential property"**
- 22 **means a mobile home or manufactured home not assessed as real**
- 23 **property.**
- 24 **Sec. 3. For purposes of this article "residential real property"**

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means:

- (1) buildings and other real property improvements subject to assessment as residential property under the rules of the department of local government finance; and**
- (2) the parcel on which the buildings and other real property improvements are located.**

Chapter 2. Application

Sec. 1. This article applies only:

- (1) to a county contiguous to:**
 - (A) Lake Michigan; and**
 - (B) Illinois; and**
- (2) if the county fiscal body adopts an ordinance to apply this article in the county.**

Sec. 2. Except as provided in section 3 of this chapter, the fee imposed under this article applies only to each owner of:

- (1) residential real property;**
- (2) other residential property; and**
- (3) other residential real property.**

Sec. 3. A fee imposed under this article does not apply to an owner referred to in section 2 of this chapter if the property owned is exempt from ad valorem property taxes.

Chapter 3. Imposition and Distribution

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

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

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

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

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

Sec. 5. The maximum property tax levy that a political

1 subdivision may impose for a budget year under IC 6-1.1-18.5 or
 2 IC 6-1.1-19 is reduced by the amount of fees imposed by the
 3 political subdivision under section 4 of this chapter for the budget
 4 year.

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

8 **Chapter 4. Fees**

9 **Sec. 1. The county fiscal body that adopts an ordinance to apply**
 10 **the fees under this article must determine:**

- 11 (1) a minimum charge for residential real property that does
 12 not exceed five hundred dollars (\$500);
 13 (2) a minimum charge for other residential property that does
 14 not exceed five hundred dollars (\$500); and
 15 (3) a minimum charge for other residential real property that
 16 does not exceed five hundred dollars (\$500).

17 **Sec. 2. The amount of the fee with respect to residential real**
 18 **property associated with a parcel for a calendar year is the greater**
 19 **of zero (0) or the remainder of:**

- 20 (1) the minimum charge determined under section 1 of this
 21 chapter for residential real property; minus
 22 (2) the property taxes attributable to the residential real
 23 property for the calendar year after consideration of all
 24 property tax deductions and credits.

25 **Sec. 3. The amount of the fee with respect to other residential**
 26 **property for a calendar year is the greater of zero (0) or the**
 27 **remainder of:**

- 28 (1) the minimum charge determined under section 1 of this
 29 chapter for other residential property; minus
 30 (2) the property taxes attributable to the other residential
 31 property for the calendar year after consideration of all
 32 property tax deductions and credits.

33 **Sec. 4. The amount of the fee with respect to other residential**
 34 **real property associated with a parcel for a calendar year is the**
 35 **greater of zero (0) or the remainder of:**

- 36 (1) the minimum charge determined under section 1 of this
 37 chapter for other residential real property; minus
 38 (2) the property taxes attributable to the other residential real
 39 property for the calendar year after consideration of all
 40 property tax deductions and credits.

41 **Sec 5. The county fiscal body may periodically change and**
 42 **readjust a minimum charge determined under this chapter.**

43 **Sec. 6. An initial minimum charge determined under this**
 44 **chapter may be established only after a public hearing at which all:**

- 45 (1) the property owners in the county; and
 46 (2) others interested;

1 have an opportunity to be heard concerning the proposed
2 minimum charge and the fee under this article.

3 **Sec. 7. After introduction of the ordinance initially establishing**
4 **the minimum charges determined under section 1 of this chapter**
5 **but before the ordinance is finally adopted, notice of the hearing**
6 **setting forth:**

7 (1) the proposed minimum charges; and

8 (2) the manner in which the fee under this chapter is
9 determined based on the minimum charges;

10 must be given by publication one (1) time each week for two (2)
11 weeks in a newspaper of general circulation in the county. The last
12 publication must be at least seven (7) days before the date fixed in
13 the notice for the hearing. The hearing may be adjourned as
14 necessary.

15 **Sec. 8. (a) The ordinance establishing the initial minimum**
16 **charges determined under section 1 of this chapter, either as:**

17 (1) originally introduced; or

18 (2) modified and amended;

19 must be passed and put into effect after the hearing.

20 (b) A copy of the ordinance establishing the minimum charges
21 must be:

22 (1) kept on file in the office of the county auditor; and

23 (2) open to public inspection.

24 **Sec. 9. A change or readjustment of a minimum charge**
25 **determined under this chapter may be made in the same manner**
26 **as the minimum charge was originally established.**

27 **Chapter 5. Liens for Fees**

28 **Sec. 1. The fees made, assessed, or established under this article**
29 **against residential real property or other residential property in**
30 **the county is a lien against the property.**

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

34 (1) is superior to and takes precedence over all other liens
35 except the lien for taxes; and

36 (2) shall be enforced under this article.

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

40 (1) the amount due;

41 (2) the penalty; and

42 (3) reasonable attorney's fees;

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

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

46 **Sec. 5. (a) A fee is not enforceable as a lien against a subsequent**

1 owner of property unless the lien for the fee was recorded with the
2 county recorder before the conveyance to the subsequent owner.

3 (b) If the property is conveyed before the lien can be filed, the
4 officer of the county who is charged with the collection of the fee
5 shall notify the person who owned the property at the time the fee
6 became payable. The notice must inform the person that payment,
7 including penalty for delinquencies, is due not less than fifteen (15)
8 days after the date of the notice. If payment is not received before
9 one hundred eighty (180) days after the date of the notice have
10 elapsed, the amount due may be expensed as a bad debt loss.

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

14 (b) A lien does not attach against residential real property or
15 other residential property occupied by someone other than the
16 owner unless the officer of the county who is charged with the
17 collection of fees notifies the owner of the property after the fees
18 have become sixty (60) days delinquent.

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

- 20 (1) liens filed with the county recorder after the recorded date
21 of conveyance of the property; and
- 22 (2) delinquent fees incurred by the seller;

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

24 (b) The demand must state the following:

- 25 (1) That the delinquent fees were not incurred by the
26 purchaser as a user, lessee, or previous owner.
- 27 (2) That the purchaser has not been paid by the seller for the
28 delinquent fees.

29 Chapter 6. Enforcement of Delinquencies

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

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

- 37 (1) The name of each owner of each residential real property
38 or other residential property on which the fees have become
39 delinquent.
- 40 (2) The description of the property as shown by the records of
41 the office of the county auditor.
- 42 (3) The amount of the fees, together with the amount of the
43 penalty.

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

46 (b) The county recorder shall charge a fee for recording the list

- 1 in accordance with the fee schedule established in IC 36-2-7-10.
- 2 (c) After recording the list, the county treasurer shall mail to
3 each property owner on the list a notice stating that a lien against
4 the owner's property has been recorded.
- 5 (d) A service charge of five dollars (\$5), which is in addition to
6 the recording fee charged under this section and section 5 of this
7 chapter, shall be added to each delinquent fee that is recorded.
- 8 **Sec. 4. (a) Using the lists prepared and recorded under sections**
9 **2 and 3 of this chapter:**
- 10 (1) after April 1 of the preceding year; and
11 (2) before April 1 of the current year;
12 the county treasurer shall before June 1 of each year certify to the
13 county auditor a list of the liens that remain unpaid for collection
14 in the next November.
- 15 (b) The county and the officers and employees of the county are
16 not liable for any material error in the information on the list.
- 17 **Sec. 5. (a) The county treasurer shall release a recorded lien**
18 **when the:**
- 19 (1) delinquent fees;
20 (2) penalties;
21 (3) service charges; and
22 (4) recording fees;
23 have been fully paid.
- 24 (b) The county recorder shall charge a fee for releasing the lien
25 in accordance with IC 36-2-7-10.
- 26 **Sec. 6. (a) On receipt of the list under section 4 of this chapter,**
27 **the county auditor shall add a fifteen dollar (\$15) certification fee**
28 **for each property on which fees are delinquent. The certification**
29 **fee is in addition to all other fees and fees. The county auditor shall**
30 **immediately enter on the tax duplicate for the municipality the:**
- 31 (1) delinquent fees;
32 (2) penalties;
33 (3) service charges;
34 (4) recording fees; and
35 (5) certification fees;
36 that are due not later than the due date of the next November
37 installment of property taxes.
- 38 (b) The county treasurer shall include any unpaid charges for
39 the:
- 40 (1) delinquent fee;
41 (2) penalty;
42 (3) service charge;
43 (4) recording fee; and
44 (5) certification fee;
45 for each property owner at the time the next cycle's property tax
46 installment is billed.

1 **Sec. 7. (a) After June 1 of each year, the county treasurer may**
 2 **not collect or accept:**

- 3 (1) delinquent fees;
 4 (2) penalties;
 5 (3) service charges;
 6 (4) recording fees; or
 7 (5) certification fees;

8 **from property owners whose property has been certified to the**
 9 **county auditor.**

10 **Sec. 8. If a:**

- 11 (1) delinquent fee;
 12 (2) penalty;
 13 (3) service charge;
 14 (4) recording fee; or
 15 (5) certification fee;

16 **is not paid, the county treasurer shall collect the unpaid money in**
 17 **the same way that delinquent property taxes are collected.**

18 **Sec. 9. (a) At the time of each semiannual tax settlement, the**
 19 **county treasurer shall certify to the county auditor all:**

- 20 (1) fees;
 21 (2) service charges; and
 22 (3) penalties;

23 **that have been collected.**

24 **(b) The county auditor shall:**

- 25 (1) deduct the service charges and certification fees collected
 26 by the county treasurer; and
 27 (2) pay to the county treasurer the remaining fees and
 28 penalties due the county.

29 **(c) The county treasurer shall:**

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

33 **Sec. 10. (a) This section applies to a:**

- 34 (1) fee;
 35 (2) penalty; or
 36 (3) service charge;

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

38 **(b) The:**

- 39 (1) fee;
 40 (2) penalty; or
 41 (3) service charge;

42 **shall be removed from the tax roll for a purchaser who, in the**
 43 **manner prescribed by IC 36-13-5-7, files a verified demand with**
 44 **the county auditor.**

45 **Chapter 7. Foreclosure of Liens**

46 **Sec. 1. A county may, as an additional or alternative remedy,**

1 **foreclose a lien established by this article as a means of collection**
2 **of fees, including the penalty on the fees.**

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

- 5 **(1) The amount of the fees.**
- 6 **(2) The penalty on the fees.**
- 7 **(3) Reasonable attorney's fees.**

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

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

- 12 **(1) The laws concerning municipal public improvement**
13 **assessments.**
- 14 **(2) The rights, remedies, procedure, and relief granted the**
15 **parties to the action."**

16 Page 119, between lines 10 and 11, begin a new paragraph and
17 insert:

18 **"SECTION 96. [EFFECTIVE JULY 1, 2005] IC 36-13, as added**
19 **by this act, applies only to budget years beginning after December**
20 **31, 2005."**

21 Renumber all SECTIONS consecutively.
 (Reference is to ESB 496 as reprinted April 5, 2005.)

Representative Espich

Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 496, begs leave to report that said bill has been amended as directed.

Representative Espich