

HOUSE BILL No. 1752

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-37-10.7.

Synopsis: Waiver of property tax penalties. Allows the county treasurer to waive penalties on certain residential property taxes.

Effective: July 1, 2005.

Thompson

January 19, 2005, read first time and referred to Committee on Local Government.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1752



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

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

1 SECTION 1. IC 6-1.1-37-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section
 3 applies when:
 4 (1) an assessment is made or increased after the date or dates on
 5 which the taxes for the year for which the assessment is made
 6 were originally due;
 7 (2) the assessment upon which a taxpayer has been paying taxes
 8 under IC 6-1.1-15-10(a)(1) or (a)(2) while a petition for review or
 9 a judicial proceeding has been pending is less than the assessment
 10 that results from the final determination of the petition for review
 11 or judicial proceeding; or
 12 (3) the collection of certain ad valorem property taxes has been
 13 stayed under IC 4-21.5-5-9, and under the final determination of
 14 the petition for judicial review the taxpayer is liable for at least
 15 part of those taxes.
 16 (b) Except as provided in subsections (c) and (g), a taxpayer shall
 17 pay interest on the taxes the taxpayer is required to pay as a result of an



1 action or a determination described in subsection (a) at the rate of ten
2 percent (10%) per year from the original due date or dates for those
3 taxes to:

- 4 (1) the date of payment; or
- 5 (2) the date on which penalties for the late payment of a tax
6 installment may be charged under subsection (e) or (f);
7 whichever occurs first.

8 (c) Except as provided in subsection (g), a taxpayer shall pay
9 interest on the taxes the taxpayer is ultimately required to pay in excess
10 of the amount that the taxpayer is required to pay under
11 IC 6-1.1-15-10(a)(1) while a petition for review or a judicial
12 proceeding has been pending at the overpayment rate established under
13 Section 6621(c)(1) of the Internal Revenue Code in effect on the
14 original due date or dates for those taxes from the original due date or
15 dates for those taxes to:

- 16 (1) the date of payment; or
- 17 (2) the date on which penalties for the late payment of a tax
18 installment may be charged under subsection (e) or (f);
19 whichever occurs first.

20 (d) With respect to an action or determination described in
21 subsection (a), the taxpayer shall pay the taxes resulting from that
22 action or determination and the interest prescribed under subsection (b)
23 or (c) on or before:

- 24 (1) the next May 10; or
- 25 (2) the next November 10;
26 whichever occurs first.

27 (e) A taxpayer shall, to the extent that the penalty is not waived
28 under section 10.5 **or** 10.7 of this chapter, begin paying the penalty
29 prescribed in section 10 of this chapter on the day after the date for
30 payment prescribed in subsection (d) if:

- 31 (1) the taxpayer has not paid the amount of taxes resulting from
32 the action or determination; and
- 33 (2) the taxpayer either:
34 (A) received notice of the taxes the taxpayer is required to pay
35 as a result of the action or determination at least thirty (30)
36 days before the date for payment; or
37 (B) voluntarily signed and filed an assessment return for the
38 taxes.

39 (f) If subsection (e) does not apply, a taxpayer who has not paid the
40 amount of taxes resulting from the action or determination shall, to the
41 extent that the penalty is not waived under section 10.5 **or** 10.7 of this
42 chapter, begin paying the penalty prescribed in section 10 of this

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1 chapter on:

2 (1) the next May 10 which follows the date for payment

3 prescribed in subsection (d); or

4 (2) the next November 10 which follows the date for payment

5 prescribed in subsection (d);

6 whichever occurs first.

7 (g) A taxpayer is not subject to the payment of interest on real

8 property assessments under subsection (b) or (c) if:

9 (1) an assessment is made or increased after the date or dates on

10 which the taxes for the year for which the assessment is made

11 were due;

12 (2) the assessment or the assessment increase is made as the result

13 of error or neglect by the assessor or by any other official

14 involved with the assessment of property or the collection of

15 property taxes; and

16 (3) the assessment:

17 (A) would have been made on the normal assessment date if

18 the error or neglect had not occurred; or

19 (B) increase would have been included in the assessment on

20 the normal annual assessment date if the error or neglect had

21 not occurred.

22 SECTION 2. IC 6-1.1-37-10 IS AMENDED TO READ AS

23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Except as

24 provided in section 10.5 or 10.7 of this chapter, if an installment of

25 property taxes is not completely paid on or before the due date, a

26 penalty equal to ten percent (10%) of the amount of delinquent taxes

27 shall be added to the unpaid portion in the year of the initial

28 delinquency.

29 (b) With respect to property taxes due in two (2) equal installments

30 under IC 6-1.1-22-9(a), on the day immediately following the due dates

31 in May and November of each year following the year of the initial

32 delinquency, an additional penalty equal to ten percent (10%) of any

33 taxes remaining unpaid shall be added. With respect to property taxes

34 due in installments under IC 6-1.1-22-9.5, an additional penalty equal

35 to ten percent (10%) of any taxes remaining unpaid shall be added on

36 the day immediately following each date that succeeds the last

37 installment due date by:

38 (1) six (6) months; or

39 (2) a multiple of six (6) months.

40 (c) The penalties under subsection (b) are imposed only on the

41 principal amount of the delinquent taxes.

42 (d) If the department of local government finance determines that

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1 an emergency has occurred which precludes the mailing of the tax
 2 statement in any county at the time set forth in IC 6-1.1-22-8, the
 3 department shall establish by order a new date on which the installment
 4 of taxes in that county is due and no installment is delinquent if paid by
 5 the date so established.

6 (e) If any due date falls on a Saturday, a Sunday, a national legal
 7 holiday recognized by the federal government, or a statewide holiday,
 8 the act that must be performed by that date is timely if performed by
 9 the next succeeding day that is not a Saturday, a Sunday, or one (1) of
 10 those holidays.

11 (f) A payment to the county treasurer is considered to have been
 12 paid by the due date if the payment is:

13 (1) received on or before the due date to the county treasurer or a
 14 collecting agent appointed by the county treasurer;

15 (2) deposited in the United States mail:

16 (A) properly addressed to the principal office of the county
 17 treasurer;

18 (B) with sufficient postage; and

19 (C) certified or postmarked by the United States Postal Service
 20 as mailed on or before the due date; or

21 (3) deposited with a nationally recognized express parcel carrier
 22 and is:

23 (A) properly addressed to the principal office of the county
 24 treasurer; and

25 (B) verified by the express parcel carrier as:

26 (i) paid in full for final delivery; and

27 (ii) received on or before the due date.

28 For purposes of this subsection, "postmarked" does not mean the date
 29 printed by a postage meter that affixes postage to the envelope or
 30 package containing a payment.

31 SECTION 3. IC 6-1.1-37-10.7 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2005]: **Sec. 10.7. (a) This section applies only
 34 to property taxes first due and payable after 2005 with respect to
 35 a homestead (as defined in IC 6-1.1-20.9-1).**

36 **(b) A taxpayer may petition the county treasurer to waive all or
 37 part of the penalty imposed under section 10(a) of this chapter on
 38 an installment of property taxes.**

39 **(c) The county treasurer may approve a petition under
 40 subsection (b) with respect to an installment of property taxes if:**

41 **(1) the installment for which the waiver is sought is part of a
 42 billing of taxes that does not conform to the billing schedule**

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- 1 **under IC 6-1.1-22-9(a);**
- 2 **(2) the taxpayer was not liable for the installment that**
- 3 **immediately preceded the installment for which the waiver is**
- 4 **sought; and**
- 5 **(3) the county treasurer did not mail the tax statement for the**
- 6 **installment for which the waiver is sought to:**
- 7 **(A) the taxpayer; or**
- 8 **(B) a mortgagee maintaining an escrow account for the**
- 9 **taxpayer.**

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