

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WITHDRAWN	Noes _____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

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1402 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-31-9-8 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. No tax or fee, except
- 5 as provided in this article, shall be assessed or collected from a permit
- 6 holder by a political subdivision having the power to assess or collect
- 7 a tax or fee. This section does not apply to **fees under IC 36-13** or real
- 8 or personal property taxes imposed by a local taxing unit."
- 9 Page 16, between lines 29 and 30, begin a new paragraph and insert:
- 10 "SECTION 10. IC 36-13 IS ADDED TO THE INDIANA CODE
- 11 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2006]:
- 13 **ARTICLE 13. PUBLIC SERVICES USER FEES**
- 14 **Chapter 1. Definitions**
- 15 **Sec. 1. For purposes of this article, "agricultural real property"**
- 16 **means:**
- 17 **(1) buildings and other real property improvements subject to**
- 18 **assessment as agricultural property under the rules of the**
- 19 **department of local government finance; and**
- 20 **(2) the parcel on which the buildings and other real property**
- 21 **improvements are located.**
- 22 **Sec. 2. For purposes of this article, "commercial real property"**
- 23 **means:**
- 24 **(1) buildings and other real property improvements subject to**
- 25 **assessment as commercial property under the rules of the**

1 department of local government finance; and
2 (2) the parcel on which the buildings and other real property
3 improvements are located.

4 Sec. 3. For purposes of this article, "industrial real property"
5 means:

6 (1) buildings and other real property improvements subject to
7 assessment as industrial property under the rules of the
8 department of local government finance; and

9 (2) the parcel on which the buildings and other real property
10 improvements are located.

11 Sec. 4. For purposes of this article, "other residential property"
12 means a mobile home or manufactured home not assessed as real
13 property.

14 Sec. 5. For purposes of this article, "other residential real
15 property" means:

16 (1) a mobile home or manufactured home assessed as real
17 property; and

18 (2) the parcel on which the mobile home or manufactured
19 home is located.

20 Sec. 6. For purposes of this article, "residential real property"
21 means:

22 (1) buildings and other real property improvements subject to
23 assessment as residential property under the rules of the
24 department of local government finance; and

25 (2) the parcel on which the buildings and other real property
26 improvements are located.

27 **Chapter 2. Application**

28 Sec. 1. This article applies only if the county fiscal body adopts
29 an ordinance to apply this article in the county.

30 Sec. 2. Except as provided in section 3 of this chapter, the fee
31 imposed under this article:

32 (1) applies to each owner of:

33 (A) agricultural real property;

34 (B) commercial real property;

35 (C) industrial real property;

36 (D) residential real property;

37 (E) other residential property; and

38 (F) other residential real property; and

39 (2) does not apply to a parcel of unimproved land.

40 Sec. 3. A fee imposed under this article does not apply to an
41 owner referred to in section 2(1) of this chapter if any of the
42 following applies:

43 (1) The property is owned by a church or religious society.

44 (2) The property is owned by a nonprofit organization and the
45 property owned is exempt from ad valorem property taxes.

46 (3) The property is owned by a governmental entity and the

1 property owned is exempt from ad valorem property taxes.

2 **Chapter 3. Imposition and Distribution**

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

5 (1) IC 6-1.1-21.

6 (2) IC 6-3.5.

7 (3) IC 6-5.5.

8 (4) IC 6-6-5.

9 (5) Any other law that computes a distribution based on the
10 assessed value of tangible property or on the property tax levy
11 imposed.

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

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

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

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

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

34 **Chapter 4. Fees**

35 **Sec. 1. (a) Subject to subsection (b), the county fiscal body that**
36 **adopts an ordinance to apply the fees under this article must**
37 **determine and include in the ordinance:**

38 (1) a minimum charge for agricultural real property;

39 (2) a minimum charge for commercial real property;

40 (3) a minimum charge for industrial real property;

41 (4) a minimum charge for residential real property;

42 (5) a minimum charge for other residential property; and

43 (6) a minimum charge for other residential real property.

44 (b) A minimum charge under subsection (a) may not exceed six
45 hundred dollars (\$600).

46 **Sec. 2. (a) The amount of the fee with respect to real property**

- 1 that is:
- 2 (1) associated with a parcel for a calendar year; and
- 3 (2) part of a category of real property referred to in
- 4 subsection 1(a) of this chapter;
- 5 is the amount determined under subsection (b).
- 6 (b) The amount of the fee under subsection (a) is the greater of
- 7 zero (0) or the remainder of:
- 8 (1) the minimum charge determined under section 1 of this
- 9 chapter for the category of real property; minus
- 10 (2) the property taxes attributable to the real property for the
- 11 calendar year after consideration of all property tax
- 12 deductions and credits.
- 13 **Sec. 3. The county fiscal body may periodically change and**
- 14 **readjust a minimum charge determined under this chapter.**
- 15 **Sec. 4. An initial minimum charge determined under this**
- 16 **chapter may be established only after a public hearing at which all:**
- 17 **(1) the property owners in the county; and**
- 18 **(2) others interested;**
- 19 **have an opportunity to be heard concerning the proposed**
- 20 **minimum charge and the fee under this article.**
- 21 **Sec. 5. After introduction of the ordinance initially establishing**
- 22 **the minimum charges determined under section 1 of this chapter**
- 23 **but before the ordinance is finally adopted, notice of the hearing**
- 24 **setting forth:**
- 25 **(1) the proposed minimum charges; and**
- 26 **(2) the manner in which the fee under this chapter is**
- 27 **determined based on the minimum charges;**
- 28 **must be given by publication one (1) time each week for two (2)**
- 29 **weeks in a newspaper of general circulation in the county. The last**
- 30 **publication must be at least seven (7) days before the date fixed in**
- 31 **the notice for the hearing. The hearing may be adjourned as**
- 32 **necessary.**
- 33 **Sec. 6. (a) The ordinance establishing the initial minimum**
- 34 **charges determined under section 1 of this chapter, either as:**
- 35 **(1) originally introduced; or**
- 36 **(2) modified and amended;**
- 37 **must be passed and put into effect after the hearing.**
- 38 **(b) A copy of the ordinance establishing the minimum charges**
- 39 **must be:**
- 40 **(1) kept on file in the office of the county auditor; and**
- 41 **(2) open to public inspection.**
- 42 **Sec. 7. A change or readjustment of a minimum charge**
- 43 **determined under this chapter may be made in the same manner**
- 44 **as the minimum charge was originally established.**
- 45 **Chapter 5. Liens for Fees**
- 46 **Sec. 1. The fees made, assessed, or established under this article**

1 against residential real property, other residential real property, or
 2 other residential property in the county are a lien against the
 3 property.

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

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

9 (2) shall be enforced under this article.

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

13 (1) the amount due;

14 (2) the penalty; and

15 (3) reasonable attorney's fees;

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

17 Sec. 4. The fees, together with the penalty, are collectible in the
 18 manner provided by this article.

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

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

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

33 (b) A lien does not attach against residential real property, other
 34 residential real property, or other residential property occupied by
 35 someone other than the owner unless the officer of the county who
 36 is charged with the collection of fees notifies the owner of the
 37 property after a fee has become sixty (60) days delinquent.

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

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

41 (2) delinquent fees incurred by the seller;

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

43 (b) The demand must state the following:

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

46 (2) That the purchaser has not been paid by the seller for the

1 delinquent fees.

2 **Chapter 6. Enforcement of Delinquencies**

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

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

10 (1) **The name of each owner of each residential real property,**
11 **other residential real property, or other residential property**
12 **on which the fees have become delinquent.**

13 (2) **The description of the property as shown by the records of**
14 **the office of the county auditor.**

15 (3) **The amount of the fees, together with the amount of the**
16 **penalty.**

17 **Sec. 3. (a) The county treasurer shall record a copy of the list**
18 **prepared under section 2 of this chapter in the office of the county**
19 **recorder.**

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

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

25 (d) **A service charge of five dollars (\$5), which is in addition to**
26 **the recording fee charged under this section and the release of lien**
27 **fee charged under section 5 of this chapter, shall be added to each**
28 **delinquent fee that is recorded.**

29 **Sec. 4. (a) Using the lists prepared and recorded under sections**
30 **2 and 3 of this chapter:**

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

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

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

36 (b) **The county and the officers and employees of the county are**
37 **not liable for any material error in the information on a list**
38 **prepared under this chapter.**

39 **Sec. 5. (a) The county treasurer shall release a recorded lien**
40 **when the:**

41 (1) **delinquent fees;**

42 (2) **penalties;**

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

44 (4) **recording fees;**

45 **have been fully paid.**

46 (b) **The county recorder shall charge a fee for releasing the lien**

1 in accordance with IC 36-2-7-10.

2 **Sec. 6. (a) On receipt of the list under section 4 of this chapter,**
 3 **the county auditor shall add a fifteen dollar (\$15) certification fee**
 4 **for each property on which fees are delinquent. The certification**
 5 **fee is in addition to all other fees, penalties, and charges. The**
 6 **county auditor shall immediately enter on the tax duplicate for the**
 7 **municipality the:**

- 8 (1) delinquent fees;
- 9 (2) penalties;
- 10 (3) service charges;
- 11 (4) recording fees; and
- 12 (5) certification fees;

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

15 **(b) The county treasurer shall include any unpaid charges for**
 16 **the:**

- 17 (1) delinquent fee;
- 18 (2) penalty;
- 19 (3) service charge;
- 20 (4) recording fee; and
- 21 (5) certification fee;

22 **for each property owner at the time the next cycle's property tax**
 23 **installment is billed.**

24 **Sec. 7. After June 1 of each year, the county treasurer may not**
 25 **collect or accept:**

- 26 (1) delinquent fees;
- 27 (2) penalties;
- 28 (3) service charges;
- 29 (4) recording fees; or
- 30 (5) certification fees;

31 **from property owners whose property has been certified to the**
 32 **county auditor.**

33 **Sec. 8. If a:**

- 34 (1) delinquent fee;
- 35 (2) penalty;
- 36 (3) service charge;
- 37 (4) recording fee; or
- 38 (5) certification fee;

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

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

- 43 (1) fees;
- 44 (2) service charges; and
- 45 (3) penalties;

46 **that have been collected.**

- 1 **(b) The county auditor shall:**
- 2 **(1) deduct the service charges and certification fees collected**
- 3 **by the county treasurer; and**
- 4 **(2) pay to the county treasurer the remaining fees and**
- 5 **penalties due the county.**
- 6 **(c) The county treasurer shall:**
- 7 **(1) retain the service charges and certification fees that have**
- 8 **been collected; and**
- 9 **(2) deposit the charges and fees in the county general fund.**

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

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

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

15 **(b) The:**

- 16 **(1) fee;**
- 17 **(2) penalty; or**
- 18 **(3) service charge;**

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

22 **Chapter 7. Foreclosure of Liens**

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

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

- 28 **(1) The amount of the fees.**
- 29 **(2) The penalty on the fees.**
- 30 **(3) Reasonable attorney's fees.**

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

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

- 35 **(1) The laws concerning municipal public improvement**
- 36 **assessments.**
- 37 **(2) The rights, remedies, procedure, and relief granted the**
- 38 **parties to the action.**

39 **SECTION 11. [EFFECTIVE JULY 1, 2006] IC 36-13, as added by**
40 **this act, applies only to budget years beginning after December 31,**
41 **2006."**

42 Renumber all SECTIONS consecutively.
(Reference is to HB 1402 as printed January 27, 2006.)

