
SENATE BILL No. 219

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-24-5; IC 6-8.1-8-3.

Synopsis: Use of licensed auctioneer for tax sales. Requires that the sale of real property for delinquent property taxes or under a tax warrant be conducted by a licensed auctioneer.

Effective: July 1, 2007.

Kruse

January 8, 2007, read first time and referred to Committee on Local Government and Elections.

C
o
p
y



First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 219



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 6-1.1-24-5, AS AMENDED BY P.L.169-2006,
- 2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2007]: Sec. 5. (a) When a tract or an item of real property is
- 4 subject to sale under this chapter, it must be sold in compliance with
- 5 this section.
- 6 (b) The sale must:
- 7 (1) be held at the times and place stated in the notice of sale; and
- 8 (2) not extend beyond one hundred seventy-one (171) days after
- 9 the list containing the tract or item of real property is certified to
- 10 the county auditor.
- 11 (c) A tract or an item of real property may not be sold under this
- 12 chapter to collect:
- 13 (1) delinquent personal property taxes; or
- 14 (2) taxes or special assessments which are chargeable to other real
- 15 property.
- 16 (d) A tract or an item of real property may not be sold under this
- 17 chapter if all the delinquent taxes, penalties, and special assessments



1 on the tract or an item of real property and the amount prescribed by
2 section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the
3 county due to the sale, are paid before the time of sale.

4 (e) The county treasurer shall **contract with an auctioneer licensed**
5 **under IC 25-6.1 to sell the tract or real property, subject to the right of**
6 **redemption, to the highest bidder at public auction. However, a tract or**
7 **an item of real property may not be sold for an amount which is less**
8 **than the sum of:**

9 (1) the delinquent taxes and special assessments on each tract or
10 item of real property;

11 (2) the taxes and special assessments on each tract or item of real
12 property that are due and payable in the year of the sale,
13 regardless of whether the taxes and special assessments are
14 delinquent;

15 (3) all penalties which are due on the delinquencies;

16 (4) the amount prescribed by section 2(a)(3)(D) of this chapter
17 reflecting the costs incurred by the county due to the sale;

18 (5) any unpaid costs which are due under section 2(b) of this
19 chapter from a prior tax sale; and

20 (6) other reasonable expenses of collection, including title search
21 expenses, uniform commercial code expenses, and reasonable
22 attorney's fees incurred by the date of the sale.

23 (f) For purposes of the sale, it is not necessary for the county
24 treasurer to first attempt to collect the real property taxes or special
25 assessments out of the personal property of the owner of the tract or
26 real property.

27 (g) The county auditor shall serve as the clerk of the sale.

28 (h) Real property certified to the county auditor under section ~~1(2)~~
29 **1(a)(2)** of this chapter must be offered for sale in a different phase of
30 the tax sale or on a different day of the tax sale than the phase or day
31 during which other real property is offered for sale.

32 **(i) The expenses of conducting the sale by an auctioneer are**
33 **considered an actual cost of the sale incurred by the county that is**
34 **directly attributable to the tax sale under section 2(a)(3)(D)(ii) of**
35 **this chapter.**

36 SECTION 2. IC 6-8.1-8-3, AS AMENDED BY P.L.111-2006,
37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2007]: Sec. 3. (a) The county sheriff of a county shall attempt
39 to levy on and collect a judgment arising from a tax warrant in that
40 county for a period of one hundred twenty (120) days from the date the
41 judgment lien is entered, unless the sheriff is relieved of that duty at an
42 earlier time by the department. The sheriff's authority to collect the

C
o
p
y



1 warrant exists only while the sheriff holds the tax warrant, and if the
 2 sheriff surrenders the warrant to the department for any reason the
 3 sheriff's authority to collect that tax warrant ceases. During the period
 4 that the sheriff has the duty to collect a tax warrant, the sheriff shall
 5 collect from the person owing the tax an amount equal to the amount
 6 of the judgment lien plus the accrued interest to the date of the
 7 payment. Subject to subsection (b), the sheriff shall make the collection
 8 by garnisheeing the person's wages and by levying on and selling any
 9 interest in property or rights in any chose in action that the person has
 10 in the county. The Indiana laws which provide relief for debtors by
 11 exempting certain property from levy by creditors do not apply to levy
 12 and sale proceedings for judgments arising from tax warrants.

13 (b) A sheriff shall sell property to satisfy a tax warrant in a manner
 14 that is reasonably likely to bring the highest net proceeds from the sale
 15 after deducting the expenses of the offer to sell and sale. A sheriff:

- 16 (1) may engage an auctioneer, **if the property to be sold is not**
 17 **real property; and**
 18 (2) **shall engage an auctioneer, if the property to be sold is real**
 19 **property;**

20 to advertise a sale and to conduct a public auction, unless the person
 21 being levied files an objection with the clerk of the circuit or superior
 22 court having the tax warrant within five (5) days of the day that the
 23 sheriff informs the person of the person's right to object. The
 24 advertising conducted by the auctioneer is in addition to any other
 25 notice required by law, and shall include a detailed description of the
 26 property to be sold. When an auctioneer is engaged under this
 27 subsection and the auctioneer files a verified claim with the clerk of the
 28 circuit or superior court with whom the tax warrant is filed, the sheriff
 29 may pay the reasonable fee and reasonable expenses of the auctioneer
 30 from the gross proceeds of the sale before other expenses and the
 31 judgment arising from the tax warrant are paid. As used in this section,
 32 "auctioneer" means an auctioneer licensed under IC 25-6.1.

33 (c) The sheriff shall deposit all amounts that the sheriff collects
 34 under this section, including partial payments, into a special trust
 35 account for judgments collected that arose from tax warrants. On or
 36 before the fifth day of each month the sheriff shall disburse the money
 37 in the tax warrant judgment lien trust account in the following order:

- 38 (1) The sheriff shall pay the department the part of the collections
 39 that represents taxes, interest, and penalties.
 40 (2) The sheriff shall pay the county treasurer and the clerk of the
 41 circuit or superior court the part of the collections that represents
 42 their assessed costs.

C
O
P
Y



1 (3) Except as provided in subdivision (4), the sheriff shall keep
 2 the part of the collections that represents the ten percent (10%)
 3 collection fee added under section 2(b) of this chapter.
 4 (4) If the sheriff has entered a salary contract under
 5 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
 6 the part of the collections that represents the ten percent (10%)
 7 collection fee added under section 2(b) of this chapter.
 8 The department shall establish the procedure for the disbursement of
 9 partial payments so that the intent of this section is carried out.
 10 (d) After the period described in subsection (a) has passed, the
 11 sheriff shall return the tax warrant to the department. However, if the
 12 department determines that:
 13 (1) at the end of this period the sheriff is in the process of
 14 collecting the judgment arising from a tax warrant in periodic
 15 payments of sufficient size that the judgment will be fully paid
 16 within one (1) year after the date the judgment was filed; and
 17 (2) the sheriff's electronic data base regarding tax warrants is
 18 compatible with the department's data base;
 19 the sheriff may keep the tax warrant and continue collections.
 20 (e) Notwithstanding any other provision of this chapter, the
 21 department may order a sheriff to return a tax warrant at any time, if the
 22 department feels that action is necessary to protect the interests of the
 23 state.
 24 (f) This subsection applies only to the sheriff of a county having a
 25 consolidated city or a second class city. In such a county, the ten
 26 percent (10%) collection fee added under section 2(b) of this chapter
 27 shall be divided as follows:
 28 (1) The sheriff may retain for disbursement under subsection (c)
 29 forty thousand dollars (\$40,000), plus one-fifth (1/5) of any fees
 30 exceeding that forty thousand dollar (\$40,000) amount.
 31 (2) Two-fifths (2/5) of any fees exceeding that forty thousand
 32 dollar (\$40,000) amount shall be deposited in the sheriff's
 33 department's pension trust fund.
 34 (3) Two-fifths (2/5) of any fees exceeding that forty thousand
 35 dollar (\$40,000) amount shall be deposited in the county general
 36 fund.

C
o
p
y

