

HOUSE BILL No. 1539

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-1-0.5; IC 6-7.1; IC 6-8-12; IC 6-8.1-1-1.

Synopsis: Replacement of property tax with transfer tax. Provides that property may not be assessed for taxation after 2010. Establishes the real estate transfer tax on all transfers of a real property interest for valuable consideration. Imposes the real estate transfer tax at the rate of 10% of the consideration paid for the conveyance. Specifies exemptions from the real estate transfer tax. Establishes the county real estate transfer tax fund. Requires distributions from the fund to the civil taxing units and school corporations located in the county proportional to their 2010 property tax levies.

Effective: July 1, 2007.

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January 23, 2007, read first time and referred to Committee on Ways and Means.

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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.

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HOUSE BILL No. 1539

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 6-1.1-1-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 0.5. This article does not apply after December 31,**
4 **2010.**

5 SECTION 2. IC 6-7.1 IS ADDED TO THE INDIANA CODE AS A
6 **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
7 2007]:

ARTICLE 7.1. REAL ESTATE TRANSFER TAX

Chapter 1. Applicability

10 **Sec. 1. Except as provided in section 2 of this chapter, this**
11 **article applies to the transfer of a real property interest for**
12 **valuable consideration that occurs after December 31, 2010.**

13 **Sec. 2. (a) This article does not apply to the following:**

- 14 (1) **A transfer of a real property interest for a consideration**
15 **of less than one hundred dollars (\$100).**
- 16 (2) **A contract or transfer that is performed in Indiana but**
17 **includes land outside Indiana.**



- 1 **(3) A lease, including an oil and gas lease, or a transfer of a**
- 2 **leasehold interest.**
- 3 **(4) A transfer of rights and interests for underground gas**
- 4 **storage purposes.**
- 5 **(5) The partition of land between tenants in common, joint**
- 6 **tenants, or tenants by the entirety.**
- 7 **(6) The following conveyances:**
 - 8 **(A) A conveyance between spouses.**
 - 9 **(B) A conveyance from a parent to the parent's natural**
 - 10 **child, stepchild, or adopted child.**
 - 11 **(C) A conveyance from a grandparent to the grandparent's**
 - 12 **natural grandchild, stepgrandchild, or adopted grandchild.**
 - 13 **(7) A transfer of mineral rights and interests.**
- 14 **(b) An action with respect to a property interest is not a transfer**
- 15 **for valuable consideration if the action is evidenced by one (1) of**
- 16 **the following:**
 - 17 **(1) A judgment or an order of a court of record making or**
 - 18 **ordering a transfer, except when a specific monetary**
 - 19 **consideration is specified or ordered by the court.**
 - 20 **(2) An instrument used to clarify boundary lines when**
 - 21 **monetary consideration is not given.**
 - 22 **(3) A quitclaim deed that does not serve as a source of title.**
 - 23 **(4) A land contract in which the legal title does not pass to the**
 - 24 **grantee until the total consideration specified in the contract**
 - 25 **has been paid.**
 - 26 **(5) An instrument creating a joint tenancy between two (2) or**
 - 27 **more persons when at least one (1) of the persons already**
 - 28 **owns the property.**
 - 29 **(6) An instrument that conveys property or an interest in**
 - 30 **property to a receiver, an administrator, or a trustee in a**
 - 31 **bankruptcy or an insolvency proceeding.**
 - 32 **(7) A written instrument transferring an interest in property**
 - 33 **under a foreclosure of a mortgage, including a written**
 - 34 **instrument given instead of foreclosure of a mortgage. This**
 - 35 **exemption does not apply to a subsequent transfer of the**
 - 36 **foreclosed property by the entity that foreclosed on the**
 - 37 **mortgage.**
 - 38 **(8) An instrument evidencing an interest in personal property.**
 - 39 **(9) An instrument or writing given as security, including a**
 - 40 **mortgage or trust deed or any assignment or discharge of**
 - 41 **security.**
 - 42 **(10) An instrument in which the grantor is the United States,**

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the state, any political subdivision or municipality, or a public officer acting in the officer's official capacity.

(11) An instrument given in foreclosure or instead of foreclosure of a loan made, guaranteed, or insured by the United States, the state, a political subdivision, or a public officer acting in the officer's official capacity.

(12) An instrument given to the United States, the state, or a public officer as grantee, under the terms, guarantee, or insurance of a loan guaranteed or insured by the grantee.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Civil taxing unit" means any entity, except a school corporation, of the type authorized before January 1, 2011, to impose ad valorem property taxes.

Sec. 3. "Conveyance" means any transfer of a real property interest for valuable consideration.

Sec. 4. "Conveyance document" means any document, deed, contract of sale, agreement, judgment, lease that includes the fee simple estate, or other document presented for recording that purports to transfer a real property interest for valuable consideration.

Sec. 5. "Department" refers to the department of state revenue.

Sec. 6. "School corporation" means a public school corporation established under Indiana law.

Sec. 7. "Tax" means the real estate transfer tax established by IC 6-7.1-3-1.

Chapter 3. General Provisions

Sec. 1. (a) A real estate transfer tax is established on any transfer for valuable consideration of real property in a county.

(b) The tax is imposed at the rate of ten percent (10%) of the total consideration actually paid or required to be paid in exchange for the conveyance of the real property as stated in the real estate transfer form filed under section 4 of this chapter.

Sec. 2. The seller or grantor of a real property interest is liable for the tax.

Sec. 3. The real estate transfer tax is a listed tax for purposes of IC 6-8.1.

Sec. 4. When a conveyance document is filed with the county auditor under section 9 of this chapter, the seller or grantor shall file a real estate transfer form and pay the tax due to the county auditor.

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1 **Sec. 5. The department shall prescribe a real estate transfer**
2 **form for use under this chapter. The form prescribed by the**
3 **department must include at least the following information:**

- 4 **(1) The key number (as defined in IC 6-1.1-1-8.5) of the**
5 **parcel.**
- 6 **(2) Whether the entire parcel is being conveyed.**
- 7 **(3) The address of the property.**
- 8 **(4) The date of the execution of the form.**
- 9 **(5) The date the property was transferred.**
- 10 **(6) An estimate of any personal property included in the**
11 **transfer.**
- 12 **(7) The name and address of each transferor and transferee.**
- 13 **(8) The ownership interest transferred.**
- 14 **(9) The total consideration actually paid or required to be**
15 **paid in exchange for the conveyance, whether it is money,**
16 **property, a service, an agreement, or other consideration, but**
17 **excluding tax payments and payments for legal and other**
18 **services that are incidental to the conveyance.**
- 19 **(10) Other information as required by the department to**
20 **carry out this article.**

21 **Sec. 6. The county recorder may not accept a conveyance**
22 **document for recording unless:**

- 23 **(1) the real estate transaction form signed by the parties is**
24 **included with the document; and**
- 25 **(2) the tax has been paid to the county auditor.**

26 **Sec. 7. (a) A real estate transfer form must be signed by at least**
27 **one (1) seller to the transaction and at least one (1) buyer to the**
28 **transaction or by an attorney or an agent for a seller or buyer.**

29 **(b) A person who signs a real estate transfer form shall attest in**
30 **writing and under penalties of perjury that to the best of the**
31 **person's knowledge and belief the information contained in the real**
32 **estate transfer form is true and correct.**

33 **Sec. 8. A tax may not be collected under this article for a**
34 **conveyance document if the conveyance was made under a written**
35 **executory contract upon which the tax was previously paid.**

36 **Sec. 9. (a) The county auditor shall keep a transfer book,**
37 **arranged by townships, cities, and towns. In the transfer book the**
38 **county auditor shall enter a description, for purposes of this**
39 **article, of real property that is conveyed by deed or partition, the**
40 **date of the conveyance, the names of the parties, and the post office**
41 **address of the grantee.**

42 **(b) In addition, the county auditor shall endorse on the deed or**

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1 instrument of conveyance the words "entered for taxation subject
2 to final acceptance for transfer", "not taxable", "has already been
3 listed for taxation", or "entered for taxation". The deed or
4 instrument must include on its face the post office address of the
5 grantee.

6 Chapter 4. County Real Estate Transfer Fund

7 Sec. 1. A county real estate transfer tax fund is established in
8 each county. The fund is administered by the county auditor.

9 Sec. 2. The county auditor shall deposit in the county real estate
10 transfer tax fund the money collected from the real estate transfer
11 tax under this article.

12 Sec. 3. (a) The county auditor shall distribute the money in the
13 fund to the civil taxing units and school corporations in the county
14 as distributive shares in the amounts determined under this
15 section.

16 (b) The amount of distributive shares that each civil taxing unit
17 and school corporation in a county is entitled to receive during a
18 month equals the product of the following:

19 (1) The amount of revenue that is to be distributed as
20 distributive shares during that month; multiplied by

21 (2) A fraction. The numerator of the fraction equals the total
22 property taxes that are first due and payable to the civil
23 taxing unit or school corporation in 2010. The denominator of
24 the fraction equals the sum of the total property taxes that are
25 first due and payable to all civil taxing units of the county in
26 2010.

27 (c) Notwithstanding subsection (b), if a civil taxing unit or
28 school corporation did not impose a property tax levy in 2010, that
29 civil taxing unit or school corporation is entitled to receive a part
30 of the revenue to be distributed as distributive shares under this
31 section within the county. The fractional amount that the civil
32 taxing unit or school corporation is entitled to receive each month
33 during a calendar year equals the product of the following:

34 (1) The amount to be distributed as distributive shares during
35 that month; multiplied by

36 (2) A fraction. The numerator of the fraction equals the
37 budget of that civil taxing unit or school corporation for that
38 calendar year. The denominator of the fraction equals the
39 total budgets of all civil taxing units and school corporations
40 of that county for that calendar year.

41 (d) If for a calendar year a civil taxing unit is allocated a part of
42 a county's distributive shares by subsection (c), the formula used

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1 in subsection (b) to determine all other civil taxing units'
2 distributive shares shall be changed each month for that same year
3 by reducing the amount to be distributed as distributive shares
4 under subsection (b) by the amount of distributive shares allocated
5 under subsection (c) for that same month.

6 (e) For purposes of this section, a school corporation's budget
7 does not include any part of the budget funded by distributions of
8 state money under IC 21.

9 **Chapter 5. Penalties**

10 **Sec. 1. A person who knowingly or intentionally:**

- 11 (1) falsifies the value of transferred real property; or
- 12 (2) omits or falsifies any information required to be provided
- 13 in a real estate transfer form under this article;
- 14 **commits a Class C misdemeanor.**

15 **Sec. 2. A public official who knowingly or intentionally accepts**
16 **a real estate transfer document for filing in violation of this article**
17 **commits a Class C misdemeanor.**

18 SECTION 3. IC 6-8-12 IS ADDED TO THE INDIANA CODE AS
19 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2007]:

21 **Chapter 12. State and Local Taxation of Property**

22 **Sec. 1. Tangible property (as defined in IC 6-1.1-1-19) may not**
23 **be assessed for taxation after December 31, 2010.**

24 SECTION 4. IC 6-8.1-1-1, AS AMENDED BY P.L.162-2006,
25 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2007] : Sec. 1. "Listed taxes" or "taxes" includes only the
27 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the river boat
28 admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13);
29 the gross income tax (IC 6-2.1) (repealed); the utility receipts and
30 utility services use taxes (IC 6-2.3); the state gross retail and use taxes
31 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
32 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax
33 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
34 economic development income tax (IC 6-3.5-7); the municipal option
35 income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the
36 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
37 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
38 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
39 collected under a reciprocal agreement under IC 6-8.1-3; the motor
40 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
41 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the
42 cigarette tax (IC 6-7-1); **the real estate transfer tax (IC 6-7.1);** the

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1 beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine
 2 excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the
 3 malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1);
 4 the various innkeeper's taxes (IC 6-9); the various food and beverage
 5 taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28);
 6 the oil inspection fee (IC 16-44-2); the emergency and hazardous
 7 chemical inventory form fee (IC 6-6-10); the penalties assessed for
 8 oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties
 9 assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the
 10 underground storage tank fee (IC 13-23); the solid waste management
 11 fee (IC 13-20-22); and any other tax or fee that the department is
 12 required to collect or administer.

13 SECTION 5. [EFFECTIVE JULY 1, 2007] (a) **Before July 1, 2010,**
 14 **the department of state revenue shall:**

15 (1) **prescribe the real estate transfer form required under**
 16 **IC 6-7.1-3, as added by this act; and**

17 (2) **make the form described in subdivision (1) available to**
 18 **each county auditor.**

19 (b) **This SECTION expires January 1, 2011.**

20 SECTION 6. [EFFECTIVE JULY 1, 2007] (a) **As used in this**
 21 **SECTION, "committee" refers to the interim study committee on**
 22 **property tax elimination established by this SECTION.**

23 (b) **The interim study committee on property tax elimination is**
 24 **established. The committee shall prepare legislation for**
 25 **introduction in the 2010 session of the general assembly to bring all**
 26 **laws in conflict with this act into conformity with this act.**

27 (c) **The committee shall operate under the policies governing**
 28 **study committees adopted by the legislative council.**

29 (d) **The affirmative votes of a majority of the voting members**
 30 **appointed to the committee are required for the committee to take**
 31 **action on any measure, including final reports.**

32 (e) **This SECTION expires November 1, 2009.**

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