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**FISCAL IMPACT STATEMENT**

**LS 7128**

**BILL NUMBER: HB 1293**

**NOTE PREPARED: Jan 9, 2011**

**BILL AMENDED:**

**SUBJECT:** Local government property issues.

**FIRST AUTHOR:** Rep. Hinkle

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:  GENERAL  
 DEDICATED  
 FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Property Tax Exemption for Nonprofit Corporations:* This bill permits waiver of the filing deadline for a property tax exemption application of a nonprofit corporation if the failure to file on time resulted from a personnel change.

*Changes to Exemption Application:* This bill allows a nonprofit corporation to amend an exemption application to include personal property or to correct a clerical error.

*Renovation of Exempt Property:* This bill provides that an exempt property that is renovated does not lose its exemption during the renovation.

*Mortgaged Property Surrendered in Bankruptcy:* With respect to mortgaged real property that the mortgagor surrenders in writing to the court or to a mortgagee, the bill provides that 30 days from the date on which the mortgagor surrenders real property the mortgagee is responsible for ensuring that the property does not violate local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes. It specifies that the mortgagee is personally liable for ensuring that the property complies with local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes, and provides that the mortgagee may be liable for additional civil penalties as determined by the appropriate local legislative body. It also provides that a mortgagee has the authority to enter onto real property in order to carry out its responsibilities.

*Recording of Deed:* It requires a mortgagee to whom property has been surrendered to record the mortgagee's interest in the property not later than 60 days after receipt. It permits, beginning July 1, 2012, a county legislative body to impose a \$5,000 civil penalty on a mortgagee that fails to record a deed within six months of acquiring the deed.

*Disclosure Form:* The bill requires the Indiana real estate commission disclosure form to advise a purchaser of the purchaser's right to surrender the property to the mortgagee.

*Maintenance Lien:* The bill permits a homeowners association that has performed maintenance work on real estate in the association to file a homeowners association maintenance lien for the amount of work done, and specifies that a homeowners association maintenance lien has priority over any other lien.

*Notice of Sale:* The bill authorizes a sheriff to affix a notice of sale to mortgaged property subject to sale if the sheriff is unable to determine the owner's residence.

*Filing of Deed:* The bill requires a sheriff to file a deed with the recorder not later than 30 days after sale, and requires the recorder to record the deed not later than 30 days after the sheriff files the deed. It specifies that the sheriff must also file a deed if the property was insured by the United States Department of Housing and Urban Development.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Disclosure Form:* The bill requires the Indiana Real Estate Commission to state on the real estate sales disclosure form that the purchaser has a right to surrender the property to the mortgagee. The agency may incur the cost to reprogram software that generates the form. An analysis of the current form indicates that there may be sufficient room to add this statement but if there is not enough room, the form may have to be redesigned which would increase the cost.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Summary:*

(1) *Mortgaged Property Surrendered in Bankruptcy:* Local taxing units within a county would save the cost of providing services such as weeding, boarding, or sewer maintenance until the property is sold.

(2) *Notice of Sale:* The sheriff would incur the cost of physically posting a copy of the notice on the mortgaged property, and mailing a copy of the notice to the property's address. These expenses might be higher than the \$10 fee the sheriff is currently permitted to charge to notify the owner of the property.

*Mortgaged Property Surrendered in Bankruptcy:* Under this bill, a mortgagee, within 30 days of receiving mortgaged property either surrendered in bankruptcy or directly from the mortgagor (via a valid quitclaim deed), would become responsible for ensuring that the property does not violate local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes. The mortgagee would be liable for any civil penalties for non-compliance. If the property has been surrendered directly to the mortgagee, the mortgagee, on receipt of the quitclaim deed, would have 60 days to record it with the county recorder.

The bill authorizes the mortgagee to enter onto the real property to fulfill these responsibilities. It does not apply to property that is still occupied by the mortgagor or a tenant.

*Notice of Sale:* Under current law, the sheriff has to serve a notice of sale to each owner of the property that is to be sold at the sheriff's sale. If the sheriff is unable to determine the owner's residence, the bill authorizes the sheriff to affix a notice of sale to the mortgaged property to be sold, and to mail a copy of the notice to the same address.

*Filing of Deed:* Current law requires the sheriff to immediately record the deed with the county recorder after a foreclosure sale. However, the sheriff is not required to record the deed if the property is insured by the United States Department of Housing and Urban Development (HUD).

Under this bill, the sheriff has up to 30 days to file a deed with the recorder who, in turn, has 30 days to record the deed. The bill also specifies that the sheriff must file a deed even if the property is insured by the HUD.

**Explanation of Local Revenues: Summary:**

*(1) Property Tax Exemption for Nonprofit Corporations; Changes to Exemption Application:* The number of properties that could be affected by these provisions is not yet known. If exemption applications for prior tax years are approved under this provision, existing tax bills for the subject property would be cancelled. The local taxing units and school corporations located in the subject property's taxing district would forego receipt of their share of the original tax due. If the taxes have already been paid, then those taxes would have to be refunded from current year tax collections. As a result, the fiscal impact could be significant for those taxing units with properties with large assessed values whose exemption applications have been approved.

*(2) Renovation of Exempt Property:* This bill permits an exemption to continue during the renovation period when under current law it could have been rescinded. The impact would depend on the length of the renovation and the amount of the exemption. In general, new exemptions lead to a reduction in the property tax base, an increase in the tax rate, and a tax shift to those taxpayers who do not qualify for the exemption. However, in this case, this bill would continue an existing exemption, eliminating the temporary increase in the tax base and temporary reduction of the tax rate that may occur during renovation.

*(3) Maintenance Lien:* There is no fiscal impact.

*Property Tax Exemption for Nonprofit Corporations:* Nonprofit organizations must file an exemption application on or before May 15<sup>th</sup> of each even-numbered year, or in any year if the organization did not have an exemption in the previous year. Current law permits an application to be filed only once for property used for educational, literary, scientific, religious, or charitable purposes as long as ownership is unchanged.

For taxes payable in 2008 and after, this bill authorizes the county property tax assessment board of appeals (PTABOA) to waive the application filing deadline for a nonprofit corporation if the individual responsible for filing the application was terminated before the filing deadline, and the position was either not filled or the new individual in that position was unaware of the filing requirement. This would apply only to exemption applications filed after June 30, 2011.

If the PTABOA denies the application, then the taxpayer may petition the Indiana Board of Tax Review (IBTR) to waive the deadline. Under the bill, the IBTR may, but would not be required to, waive the deadline if the applicant meets the above requirements.

*Changes to Exemption Application:* This bill permits a nonprofit corporation to amend an exemption application to include personal property or to correct a clerical error. The amendment must be submitted within three years of the assessment date for which the original application applied. If approved by the PTABOA, the existing tax bills for the subject property would be cancelled and the nonprofit entity entitled to a refund of any taxes paid.

*Renovation of Exempt Property:* Under current law, an exemption may be granted to property used for religious, educational, literary, scientific, or charitable purposes. Currently, if an exempt property is sold or transferred to another exempt entity but during renovation is not used for its exempt purpose, the exemption may be lost.

Under this provision, if the property changes ownership, is renovated after the ownership change, and after the renovation meets the requirements for a religious, educational, literary, scientific or charitable exemption, the exemption would also apply during the period of the renovation.

*Recording of Deed:* If the property has been surrendered directly to the mortgagee, the mortgagee, on receipt of the quitclaim deed, would have 60 days to record it with the county recorder. Under the bill, beginning July 1, 2012, a county legislative body may impose a civil penalty of up to \$5,000 on a mortgagee that fails to record a deed within six months of acquiring the deed.

**State Agencies Affected:** Indiana Real Estate Commission.

**Local Agencies Affected:** Local Taxing Units; PTABOA; Sheriffs; County Recorders.

**Information Sources:**

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