



January 27, 2012

SENATE BILL No. 88

DIGEST OF SB 88 (Updated January 25, 2012 3:24 pm - DI 87)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Proof of residency for homestead deduction. Provides that a county auditor may require an individual to provide evidence proving that the individual's residence is the individual's principal place of residence for purposes of the homestead standard deduction. Provides that the county auditor may limit the evidence that an individual may submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. Provides that if an individual's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the county property tax assessment board of appeals. Requires the county auditor to inform the property owner of the right to appeal the auditor's determination when the auditor issues the auditor's determination.

Effective: July 1, 2012.

Kruse, Glick

January 4, 2012, read first time and referred to Committee on Local Government.
January 26, 2012, amended, reported favorably — Do Pass.

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SB 88—LS 6205/DI 58+



January 27, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 88

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 6-1.1-12-37, AS AMENDED BY P.L.172-2011,
2 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 37. (a) The following definitions apply throughout
4 this section:
5 (1) "Dwelling" means any of the following:
6 (A) Residential real property improvements that an individual
7 uses as the individual's residence, including a house or garage.
8 (B) A mobile home that is not assessed as real property that an
9 individual uses as the individual's residence.
10 (C) A manufactured home that is not assessed as real property
11 that an individual uses as the individual's residence.
12 (2) "Homestead" means an individual's principal place of
13 residence:
14 (A) that is located in Indiana;
15 (B) that:
16 (i) the individual owns;
17 (ii) the individual is buying under a contract; recorded in the

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- 1 county recorder's office, that provides that the individual is
 2 to pay the property taxes on the residence;
 3 (iii) the individual is entitled to occupy as a
 4 tenant-stockholder (as defined in 26 U.S.C. 216) of a
 5 cooperative housing corporation (as defined in 26 U.S.C.
 6 216); or
 7 (iv) is a residence described in section 17.9 of this chapter
 8 that is owned by a trust if the individual is an individual
 9 described in section 17.9 of this chapter; and
 10 (C) that consists of a dwelling and the real estate, not
 11 exceeding one (1) acre, that immediately surrounds that
 12 dwelling.

13 Except as provided in subsection (k), the term does not include
 14 property owned by a corporation, partnership, limited liability
 15 company, or other entity not described in this subdivision.

16 (b) Each year a homestead is eligible for a standard deduction from
 17 the assessed value of the homestead for an assessment date. The
 18 deduction provided by this section applies to property taxes first due
 19 and payable for an assessment date only if an individual has an interest
 20 in the homestead described in subsection (a)(2)(B) on:

- 21 (1) the assessment date; or
 22 (2) any date in the same year after an assessment date that a
 23 statement is filed under subsection (e) or section 44 of this
 24 chapter, if the property consists of real property.

25 Subject to subsection (c), the auditor of the county shall record and
 26 make the deduction for the individual or entity qualifying for the
 27 deduction.

28 (c) Except as provided in section 40.5 of this chapter, the total
 29 amount of the deduction that a person may receive under this section
 30 for a particular year is the lesser of:

- 31 (1) sixty percent (60%) of the assessed value of the real property,
 32 mobile home not assessed as real property, or manufactured home
 33 not assessed as real property; or
 34 (2) forty-five thousand dollars (\$45,000).

35 (d) A person who has sold real property, a mobile home not assessed
 36 as real property, or a manufactured home not assessed as real property
 37 to another person under a contract that provides that the contract buyer
 38 is to pay the property taxes on the real property, mobile home, or
 39 manufactured home may not claim the deduction provided under this
 40 section with respect to that real property, mobile home, or
 41 manufactured home.

42 (e) Except as provided in sections 17.8 and 44 of this chapter and



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1 subject to section 45 of this chapter, an individual who desires to claim
 2 the deduction provided by this section must file a certified statement in
 3 duplicate, on forms prescribed by the department of local government
 4 finance, with the auditor of the county in which the homestead is
 5 located. The statement must include:

6 (1) the parcel number or key number of the property and the name
 7 of the city, town, or township in which the property is located;

8 (2) the name of any other location in which the applicant or the
 9 applicant's spouse owns, is buying, or has a beneficial interest in
 10 residential real property;

11 (3) the names of:

12 (A) the applicant and the applicant's spouse (if any):

13 (i) as the names appear in the records of the United States
 14 Social Security Administration for the purposes of the
 15 issuance of a Social Security card and Social Security
 16 number; or

17 (ii) that they use as their legal names when they sign their
 18 names on legal documents;

19 if the applicant is an individual; or

20 (B) each individual who qualifies property as a homestead
 21 under subsection (a)(2)(B) and the individual's spouse (if any):

22 (i) as the names appear in the records of the United States
 23 Social Security Administration for the purposes of the
 24 issuance of a Social Security card and Social Security
 25 number; or

26 (ii) that they use as their legal names when they sign their
 27 names on legal documents;

28 if the applicant is not an individual; and

29 (4) either:

30 (A) the last five (5) digits of the applicant's Social Security
 31 number and the last five (5) digits of the Social Security
 32 number of the applicant's spouse (if any); or

33 (B) if the applicant or the applicant's spouse (if any) do not
 34 have a Social Security number, any of the following for that
 35 individual:

36 (i) The last five (5) digits of the individual's driver's license
 37 number.

38 (ii) The last five (5) digits of the individual's state
 39 identification card number.

40 (iii) If the individual does not have a driver's license or a
 41 state identification card, the last five (5) digits of a control
 42 number that is on a document issued to the individual by the

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1 federal government and determined by the department of
 2 local government finance to be acceptable.

3 If a form or statement provided to the county auditor under this section,
 4 IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or
 5 part or all of the Social Security number of a party or other number
 6 described in subdivision (4)(B) of a party, the telephone number and
 7 the Social Security number or other number described in subdivision
 8 (4)(B) included are confidential. The statement may be filed in person
 9 or by mail. If the statement is mailed, the mailing must be postmarked
 10 on or before the last day for filing. The statement applies for that first
 11 year and any succeeding year for which the deduction is allowed. With
 12 respect to real property, the statement must be completed and dated in
 13 the calendar year for which the person desires to obtain the deduction
 14 and filed with the county auditor on or before January 5 of the
 15 immediately succeeding calendar year. With respect to a mobile home
 16 that is not assessed as real property, the person must file the statement
 17 during the twelve (12) months before March 31 of the year for which
 18 the person desires to obtain the deduction.

19 (f) If an individual who is receiving the deduction provided by this
 20 section or who otherwise qualifies property for a deduction under this
 21 section:

22 (1) changes the use of the individual's property so that part or all
 23 of the property no longer qualifies for the deduction under this
 24 section; or

25 (2) is no longer eligible for a deduction under this section on
 26 another parcel of property because:

27 (A) the individual would otherwise receive the benefit of more
 28 than one (1) deduction under this chapter; or

29 (B) the individual maintains the individual's principal place of
 30 residence with another individual who receives a deduction
 31 under this section;

32 the individual must file a certified statement with the auditor of the
 33 county, notifying the auditor of the change of use, not more than sixty
 34 (60) days after the date of that change. An individual who fails to file
 35 the statement required by this subsection is liable for any additional
 36 taxes that would have been due on the property if the individual had
 37 filed the statement as required by this subsection plus a civil penalty
 38 equal to ten percent (10%) of the additional taxes due. The civil penalty
 39 imposed under this subsection is in addition to any interest and
 40 penalties for a delinquent payment that might otherwise be due. One
 41 percent (1%) of the total civil penalty collected under this subsection
 42 shall be transferred by the county to the department of local

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1 government finance for use by the department in establishing and
 2 maintaining the homestead property data base under subsection (i) and,
 3 to the extent there is money remaining, for any other purposes of the
 4 department. This amount becomes part of the property tax liability for
 5 purposes of this article.

6 (g) The department of local government finance shall adopt rules or
 7 guidelines concerning the application for a deduction under this
 8 section.

9 (h) This subsection does not apply to property in the first year for
 10 which a deduction is claimed under this section if the sole reason that
 11 a deduction is claimed on other property is that the individual or
 12 married couple maintained a principal residence at the other property
 13 on March 1 in the same year in which an application for a deduction is
 14 filed under this section or, if the application is for a homestead that is
 15 assessed as personal property, on March 1 in the immediately
 16 preceding year and the individual or married couple is moving the
 17 individual's or married couple's principal residence to the property that
 18 is the subject of the application. Except as provided in subsection (n),
 19 the county auditor may not grant an individual or a married couple a
 20 deduction under this section if:

21 (1) the individual or married couple, for the same year, claims the
 22 deduction on two (2) or more different applications for the
 23 deduction; and

24 (2) the applications claim the deduction for different property.

25 (i) The department of local government finance shall provide secure
 26 access to county auditors to a homestead property data base that
 27 includes access to the homestead owner's name and the numbers
 28 required from the homestead owner under subsection (e)(4) for the sole
 29 purpose of verifying whether an owner is wrongly claiming a deduction
 30 under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or
 31 IC 6-3.5.

32 (j) **A county auditor may require an individual to provide**
 33 **evidence proving that the individual's residence is the individual's**
 34 **principal place of residence as claimed in the certified statement**
 35 **filed under subsection (e). The county auditor may limit the**
 36 **evidence that an individual is required to submit to a state income**
 37 **tax return, a valid driver's license, or a valid voter registration**
 38 **card showing that the residence for which the deduction is claimed**
 39 **is the individual's principal place of residence.** The department of
 40 local government finance shall work with county auditors to develop
 41 procedures to determine whether a property owner that is claiming a
 42 standard deduction or homestead credit is not eligible for the standard



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1 deduction or homestead credit because the property owner's principal
2 place of residence is outside Indiana.

3 (k) As used in this section, "homestead" includes property that
4 satisfies each of the following requirements:

5 (1) The property is located in Indiana and consists of a dwelling
6 and the real estate, not exceeding one (1) acre, that immediately
7 surrounds that dwelling.

8 (2) The property is the principal place of residence of an
9 individual.

10 (3) The property is owned by an entity that is not described in
11 subsection (a)(2)(B).

12 (4) The individual residing on the property is a shareholder,
13 partner, or member of the entity that owns the property.

14 (5) The property was eligible for the standard deduction under
15 this section on March 1, 2009.

16 (l) If a county auditor terminates a deduction for property described
17 in subsection (k) with respect to property taxes that are:

18 (1) imposed for an assessment date in 2009; and

19 (2) first due and payable in 2010;

20 on the grounds that the property is not owned by an entity described in
21 subsection (a)(2)(B), the county auditor shall reinstate the deduction if
22 the taxpayer provides proof that the property is eligible for the
23 deduction in accordance with subsection (k) and that the individual
24 residing on the property is not claiming the deduction for any other
25 property.

26 (m) For assessments dates after 2009, the term "homestead"
27 includes:

28 (1) a deck or patio;

29 (2) a gazebo; or

30 (3) another residential yard structure, as defined in rules adopted
31 by the department of local government finance (other than a
32 swimming pool);

33 that is assessed as real property and attached to the dwelling.

34 (n) A county auditor shall grant an individual a deduction under this
35 section regardless of whether the individual and the individual's spouse
36 claim a deduction on two (2) different applications and each
37 application claims a deduction for different property if the property
38 owned by the individual's spouse is located outside Indiana and the
39 individual files an affidavit with the county auditor containing the
40 following information:

41 (1) The names of the county and state in which the individual's
42 spouse claims a deduction substantially similar to the deduction

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1 allowed by this section.

2 (2) A statement made under penalty of perjury that the following
3 are true:

4 (A) That the individual and the individual's spouse maintain
5 separate principal places of residence.

6 (B) That neither the individual nor the individual's spouse has
7 an ownership interest in the other's principal place of
8 residence.

9 (C) That neither the individual nor the individual's spouse has,
10 for that same year, claimed a standard or substantially similar
11 deduction for any property other than the property maintained
12 as a principal place of residence by the respective individuals.

13 A county auditor may require an individual or an individual's spouse to
14 provide evidence of the accuracy of the information contained in an
15 affidavit submitted under this subsection. The evidence required of the
16 individual or the individual's spouse may include state income tax
17 returns, excise tax payment information, property tax payment
18 information, driver license information, and voter registration
19 information.

20 (o) If:

21 (1) a property owner files a statement under subsection (e) to
22 claim the deduction provided by this section for a particular
23 property; and

24 (2) the county auditor receiving the filed statement determines
25 that the property owner's property is not eligible for the deduction;
26 the county auditor shall inform the property owner of the county
27 auditor's determination in writing. **If a property owner's property is
28 not eligible for the deduction because the county auditor has
29 determined that the property is not the property owner's principal
30 place of residence, the property owner may appeal the county
31 auditor's determination to the county property tax assessment
32 board of appeals as provided in IC 6-1.1-15. The county auditor
33 shall inform the property owner of the right to appeal to the county
34 property tax board of appeals when the county auditor informs the
35 property owner of the county auditor's determination under this
36 subsection.**

37 SECTION 2. [EFFECTIVE JULY 1, 2012] (a) **The administrative
38 rule concerning proof by an individual that a residence is the
39 individual's principal place of residence for purposes of the
40 homestead standard deduction that is set forth at 50 IAC 24-3-2 is
41 void. The publisher of the Indiana Administrative Code shall
42 remove 50 IAC 24-3-2 from the Indiana Administrative Code.**

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1 **(b) This SECTION expires July 1, 2014.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 88, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 7, line 32, after "IC 6-1.1-15." insert "**The county auditor shall inform the property owner of the right to appeal to the county property tax board of appeals when the county auditor informs the property owner of the county auditor's determination under this subsection.**".

and when so amended that said bill do pass.

(Reference is to SB 88 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 8, Nays 0.

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