

Updated March 24, 2023 (9:50am)

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## **SENATE BILL No. 46**

**AM004604 has been incorporated into February 1, 2023 printing.**

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**Synopsis:** County option circuit breaker tax credit.

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**SB 46—LS 6362/DI 120**



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February 1, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE BILL No. 46

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 6-1.1-49 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]:  
4 **Chapter 49. County Option Circuit Breaker Tax Credit**  
5 **Sec. 1. As used in this chapter, "homestead" refers to a**  
6 **homestead that has been granted a standard deduction under**  
7 **IC 6-1.1-12-37.**  
8 **Sec. 2. As used in this chapter, "qualified individual" means an**  
9 **individual who:**  
10 (1) **has received a standard deduction granted under**  
11 **IC 6-1.1-12-37 for the individual's homestead property in the**  
12 **immediately preceding calendar year (or was married at the**  
13 **time of death to a deceased spouse who qualified for a**  
14 **standard deduction granted under IC 6-1.1-12-37 for the**  
15 **individual's homestead property in the immediately**  
16 **preceding calendar year);**  
17 (2) **is receiving a standard deduction granted under**  
18 **IC 6-1.1-12-37 for the same homestead property in the**

SB 46—LS 6362/DI 120



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current calendar year;

(3) has lived in the homestead for at least ten (10) years on or before December 31 of the calendar year immediately preceding the current calendar year;

(4) is fifty-five (55) years of age or older on or before December 31 of the calendar year preceding the year in which the credit is claimed; and

(5) had:

(A) in the case of an individual who filed a single return, adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding the amount specified in the ordinance adopted by the county under section 3(c)(2) of this chapter; or

(B) in the case of an individual who filed a joint income tax return with the individual's spouse, combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding the amount specified in the ordinance adopted by the county under section 3(c)(2) of this chapter;

for the calendar year preceding by two (2) years the calendar year in which property taxes are first due and payable.

**Sec. 3. (a)** A county fiscal body may adopt an ordinance to provide a credit against a qualified individual's property tax liability as set forth in this chapter.

**(b)** An ordinance adopted under this section may designate:

(1) all of the territory of the county; or

(2) one (1) or more specific geographic territories within the county;

as an area in which qualified individuals may apply for the credit.

**(c)** An ordinance adopted under this section must:

(1) include a boundary description of the geographic area or areas to which the ordinance applies;

(2) specify the income thresholds for a qualified individual under section 2(5)(A) and 2(5)(B) of this chapter, if any; and

(3) specify the percentage of increase on a qualified individual's property tax liability in a particular year compared to the prior year that is to be used in determining the amount of the county option circuit breaker tax credit calculated under section 6(2)(B) of this chapter. The percentage must be at least two percent (2%) but not more than five percent (5%).

The boundary description required under subdivision (1) must be



sufficient to identify the parcel or parcels to which the credit may be applied, including identification by taxing district, a parcel list, or a legal description.

(d) If a proposal is presented to the county fiscal body to adopt an ordinance under this section, the county fiscal body shall hear the proposal at a public meeting of the county fiscal body and may then vote to adopt the ordinance at the next meeting of the county fiscal body.

(e) The county fiscal body may rescind an ordinance adopted under this section.

(f) An ordinance adopted under this section is effective January 1 of the year following the year in which the ordinance is adopted.

(g) An ordinance adopted under this section must specify that the credit does not apply for property taxes first due and payable after December 31, 2027.

**Sec. 4.** If a county fiscal body adopts an ordinance to either provide the credit under this chapter or rescind an ordinance previously adopted, the county fiscal body shall, not later than fifteen (15) days after the adoption of the ordinance, give notice of the adoption of the ordinance to:

(1) the department of local government finance on the form and in the manner prescribed by the department of local government finance;

(2) the county auditor; and

(3) the fiscal officer of each taxing unit within the geographic area or areas to which the ordinance applies;

including a certified copy of the adopted ordinance.

**Sec. 5. (a)** A qualified individual who desires to claim the credit under this chapter must apply for the credit by filing a certified statement on forms prescribed by the department of local government finance with the county auditor. However, a qualified individual who remains eligible for the credit in the following year is not required to file a statement to apply for the credit in the following year.

(b) An individual who has a credit provided under this chapter applied to the individual's property tax liability in a particular calendar year may not also have a credit under IC 6-1.1-20.6-8.5 applied to the individual's property tax liability in the same calendar year.

**Sec. 6.** The amount of the credit under this chapter is equal to the greater of zero (0) or the result of:

SB 46—LS 6362/DI 120



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(1) the property tax liability first due and payable on the qualified individual's homestead property for the calendar year (excluding any property tax liability imposed in a voter approved referendum levy); minus

(2) the result of:

(A) the property tax liability first due and payable on the qualified individual's homestead property for the immediately preceding year after the application of the credit granted under this section for that year (excluding any property tax liability imposed in a voter approved referendum levy); multiplied by

(B) the sum of:

(i) the percentage adopted in an ordinance under section 3(c)(3) of this chapter, expressed as a decimal; plus

(ii) one (1).

However, the credit provided by this chapter shall not apply to any portion of property tax liability imposed on a qualified individual's homestead property that is used for trade or business purposes in connection with the production of income. In addition, the credit does not affect the allocation of taxes to a referendum fund.

Sec. 7. The auditor of each county shall, in a particular year, apply a credit provided under this chapter to each qualified individual who received the credit in the preceding year unless the county auditor determines that the individual is no longer eligible for the credit or the county fiscal body rescinds the ordinance that provided the credit.

Sec. 8. (a) If an individual who is receiving the credit provided by this chapter:

(1) knows or should have known that the individual does not qualify for the credit under this chapter; or

(2) changes the use of the individual's property so that part or all of the property no longer qualifies for the credit under this chapter;

the individual must file a certified statement with the county auditor, notifying the county auditor that subdivision (1) or (2) applies, not more than sixty (60) days after the date subdivision (1) or (2) first applies.

(b) An individual who fails to file the statement required by this section is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this section, plus a civil penalty equal to ten percent



1 (10%) of the additional taxes due. The additional taxes owed plus  
2 the civil penalty become part of the property tax liability for  
3 purposes of this article.

4 (c) The civil penalty imposed under this section is in addition  
5 to any interest and penalties for a delinquent payment that might  
6 otherwise be due. One percent (1%) of the total civil penalty  
7 collected under this section shall be transferred by the county to  
8 the department of local government finance for use by the  
9 department in establishing and maintaining the homestead  
10 property data base under IC 6-1.1-12-37(i) and, to the extent there  
11 is money remaining, for any other purposes of the department.

12 Sec. 9. This chapter expires January 1, 2028.

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SB 46—LS 6362/DI 120



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