

Updated March 28, 2023 (2:04pm)

SENATE BILL No. 46

AM004606 has been incorporated into February 1, 2023 printing.

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, "neighborhood enhancement**
9 **district" refers to a geographic territory designated by a county**
10 **fiscal body and established as a designated area in an ordinance**
11 **adopting a county option circuit breaker tax credit under section**
12 **4 of this chapter.**
13 **Sec. 3. As used in this chapter, "qualified individual" means an**
14 **individual who:**
15 **(1) qualified for a standard deduction granted under**
16 **IC 6-1.1-12-37 for the individual's homestead property in the**
17 **immediately preceding calendar year (or was married at the**
18 **time of death to a deceased spouse who qualified for a**

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standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year);

(2) qualifies for a standard deduction granted under IC 6-1.1-12-37 for the same homestead property in the 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 4(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 4(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. 4. (a) Subject to subsection (g), 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 a neighborhood enhancement district. A neighborhood enhancement district may include:

(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) Subject to subsection (g), an ordinance adopted under this section must:

(1) include a boundary description of the neighborhood enhancement district or districts to which the ordinance applies;

(2) specify the income thresholds for a qualified individual



under section 3(5)(A) and 3(5)(B) of this chapter, if any; and
 (3) specify the amount of the credit to be claimed under
 section 7(2)(B) of this chapter. The credit percentage must be
 at least two percent (2%) but not more than five percent
 (5%).

(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) A county fiscal body shall prescribe the same income
 thresholds, credit amounts, and any other requirements related to
 eligibility for each neighborhood enhancement district designated
 in the county.

Sec. 5. 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 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
 neighborhood enhancement district or districts to which the
 ordinance applies;

including a certified copy of the adopted ordinance.

Sec. 6. (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) Not more than one (1) credit may be claimed under this
 chapter with respect to a particular homestead by any qualified
 individual.

Sec. 7. The amount of the credit under this chapter is equal to



the greater of zero (0) or the result of:

(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 credit percentage adopted in an ordinance under section 4(c)(3) of this chapter.

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. 8. If the ownership of a homestead for which a qualified individual received a credit under this chapter changes, and the qualified individual no longer owns or principally resides in the homestead, the county auditor shall remove the designation of the individual as a qualified individual with respect to that homestead.

Sec. 9. 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. 10. (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



1 this section is liable for any additional taxes that would have been
2 due on the property if the individual had filed the statement as
3 required by this section, plus a civil penalty equal to ten percent
4 (10%) of the additional taxes due. The additional taxes owed plus
5 the civil penalty become part of the property tax liability for
6 purposes of this article.

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

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