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SENATE BILL No. 46

Proposed Changes to February 1, 2023 printing by AM004606

DIGEST OF PROPOSED AMENDMENT

County option circuit breaker tax credit. Defines "neighborhood enhancement district" for purposes of the area designated as eligible for a county option circuit breaker tax credit. Provides that a county fiscal body must prescribe the same requirements for each neighborhood enhancement district established in the county.

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~~ 2.** As used in this chapter, "neighborhood
9 enhancement district" refers to a geographic territory designated
10 by a county fiscal body and established as a designated area in an
11 ordinance adopting a county option circuit breaker tax credit
12 under section 4 of this chapter.

13 **Sec. 3.** As used in this chapter, "qualified individual" means
14 an 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
19 standard deduction granted under IC 6-1.1-12-37 for the
20 individual's homestead property in the immediately

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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 ~~3~~ [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 ~~3~~ [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. ~~3~~ [4]. (a) ~~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) ~~A~~ Subject to subsection (g), an ordinance adopted under this section must:

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

(2) specify the income thresholds for a qualified individual under section ~~2~~ [3](5)(A) and ~~2~~ [3](5)(B) of this chapter, if any; and

(3) specify the amount of the credit to be claimed under section ~~6~~ [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

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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. ~~<4>~~ [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 ~~<geographic area>~~ [neighborhood enhancement district] or ~~<areas>~~ [districts] to which the ordinance applies;

including a certified copy of the adopted ordinance.

Sec. ~~<5>~~ [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. ~~<6>~~ [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 ~~<3>~~ [4](c)(3) of this chapter.

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

6 Sec. ~~<7>~~ 8. If the ownership of a homestead for which a
 7 qualified individual received a credit under this chapter changes,
 8 and the qualified individual no longer owns or principally resides
 9 in the homestead, the county auditor shall remove the designation
 10 of the individual as a qualified individual with respect to that
 11 homestead.

12 Sec. 9]. The auditor of each county shall, in a particular year,
 13 apply a credit provided under this chapter to each qualified
 14 individual who received the credit in the preceding year unless the
 15 county auditor determines that the individual is no longer eligible
 16 for the credit or the county fiscal body rescinds the ordinance that
 17 provided the credit.

18 Sec. ~~<8>~~ [10]. (a) If an individual who is receiving the credit
 19 provided by this chapter:

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

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

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

29 (b) An individual who fails to file the statement required by
 30 this section is liable for any additional taxes that would have been
 31 due on the property if the individual had filed the statement as
 32 required by this section, plus a civil penalty equal to ten percent
 33 (10%) of the additional taxes due. The additional taxes owed plus
 34 the civil penalty become part of the property tax liability for
 35 purposes of this article.

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

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