

# PROPOSED AMENDMENT

## SB 163 # 8

### DIGEST

Property tax matters. Revises and limits the provision in the bill regarding the use of additional information in a property tax appeal to appeals involving residential property. Makes changes to the statute allocating the burden of proof in property tax assessment appeals by: (1) providing that the assessing official has the burden of proving that the assessment is correct; (2) removing the provision shifting the burden from the taxpayer to the assessing official when the property's assessment increased by more than 5% over the property's assessment for the prior tax year; and (3) removing language providing that if the totality of the evidence presented to the Indiana board of tax review is insufficient to determine the property's true tax value that the property's assessment is presumed to be equal to the property's true tax value as last determined by the assessing official or county property tax assessment board of appeals. Specifies the applicability of the changes made to the burden of proof in property tax assessment appeals to both new appeals and pending appeals. Removes SECTION 3 of the current bill which would have required the department of local government finance (DLGF) to develop and provide to each county a standard Internet user portal through which taxpayers may make property tax payments on at least a monthly basis by electronic payment to the county treasurers and replaces it with a provision requiring the DLGF to prepare a report regarding the creation of a portal through which taxpayers may make property tax payments on at least a monthly basis and present the report to the interim study committee on fiscal policy. Modifies a procedure pertaining to individuals who may serve as a tax representative of any taxpayer concerning property subject to property taxes. Revises and restates the definition of "first time home buyer" for purposes of the provisions of the bill establishing a county option first time home buyer property tax credit.

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1       Page 3, between lines 36 and 37, begin a new paragraph and insert:  
2       "SECTION 2. IC 6-1.1-13-13, AS AMENDED BY P.L.174-2022,  
3       SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4       UPON PASSAGE]: Sec. 13. (a) This section applies to both residential  
5       real property and commercial property, with an assessed value of three  
6       million dollars (\$3,000,000) or less, for which the assessed value was  
7       increased for a tax year by an assessing official for any reason other  
8       than by the application of the annual adjustment factor used by the  
9       assessing official to adjust property values for that year. However, this  
10      section does not apply to an assessment if the assessment is based on:  
11       (1) structural improvements;  
12       (2) zoning; or  
13       (3) uses;  
14       that were not considered in the assessment for the prior tax year.

1 (b) If the taxpayer:

2       (1) appeals an increased assessment as described in subsection (a)

3       to the county property tax assessment board of appeals or the

4       Indiana board; and

5       (2) prevails in an appeal described in subdivision (1) or any

6       resulting subsequent appeal of the increased assessment described

7       in subsection (a);

8       the assessing official shall not increase the assessed value of the

9       property until the first year of the next four (4) year cyclical assessment

10      cycle for any reason other than by application of the annual adjustment

11      factor used by the assessing official to adjust property values for a tax

12      year. During this period, the taxpayer may not appeal an increased

13      assessment made by the assessor unless the taxpayer believes that the

14      increased assessment is arbitrary and capricious and not made

15      consistent with the annual adjustment factor used by the assessing

16      official to adjust property values for a tax year. If the taxpayer does

17      appeal during this period on the grounds that the increased assessment

18      is arbitrary and capricious and not made consistent with the annual

19      adjustment factor used by the assessing official to adjust property

20      values for a tax year, the ~~provision shifting the burden to the~~ assessing

21      official **has the burden** to prove that the assessment is correct under

22      IC 6-1.1-15-17.2(d) (before its repeal) or IC 6-1.1-15-20. ~~does not~~

23      apply.

24 (c) This section does not apply if:

25 (1) the reduction in assessed value is the result of a settlement  
26 agreement between the taxpayer and the assessing official; or

27 (2) the appeal is based on a correction of error under  
28 IC 6-1.1-15-1.1(a) and IC 6-1.1-15-1.1(b).

29 (d) If the taxpayer who appealed an increased assessment under this  
30 section sells the property, whose assessment was appealed, for fair  
31 market value, notwithstanding subsection (b), the assessor may reassess  
32 the property that was sold.".

33 Page 5, delete lines 41 through 42.

34 Page 6, delete lines 1 through 19, begin a new paragraph and insert:

35        "(j) In an appeal following the date of assessment under  
36        IC 6-1.1-2-1.5 for residential property:

39 (A) used by the county assessor or third party contractor  
40 on the assessment date to determine the assessment for the

1                   **given assessment year;**  
2                   **(B) that is included in the property tax statement for the**  
3                   **given assessment year or the notice of assessment for the**  
4                   **given assessment year; and**  
5                   **(C) that is furnished to the taxpayer for the given**  
6                   **assessment year; and**  
7                   **(2) a county assessor shall not introduce or rely on any**  
8                   **information not used to determine the assessment on the**  
9                   **assessment date for the given assessment year, including any**  
10                  **information from a third party contractor.**

11                  **For purposes of this subsection, an appeal includes a preliminary**  
12                  **informal meeting under section 1.2(a) of this chapter.**

13                  SECTION 4. IC 6-1.1-15-17.3, AS AMENDED BY P.L.178-2021,  
14                  SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15                  UPON PASSAGE]: Sec. 17.3. (a) As used in this section, "tax official"  
16                  means:

17                  (1) a township assessor;  
18                  (2) a county assessor;  
19                  (3) a county auditor;  
20                  (4) a county treasurer;  
21                  (5) a member of a county board; or  
22                  (6) any employee, contract employee, or independent contractor  
23                  of an individual described in subdivisions (1) through (5).

24                  (b) Except as provided in subsection (c), a tax official in a county  
25                  may not serve as a tax representative of any taxpayer with respect to  
26                  property subject to property taxes in the county before the county board  
27                  of that county or the Indiana board. The prohibition under this  
28                  subsection applies regardless of whether or not the individual receives  
29                  any compensation for the representation or assistance.

30                  (c) Subsection (b) does not:  
31                  (1) prohibit a contract employee or independent contractor of a  
32                  tax official from serving as a tax representative before the county  
33                  board or Indiana board for a taxpayer with respect to property  
34                  subject to property taxes in the county unless the contract  
35                  employee or independent contractor personally and substantially  
36                  participated in the assessment of the property; or  
37                  (2) prohibit an individual from appearing before the county board  
38                  or Indiana board regarding property owned by the individual.

39                  (d) An individual who is a former county assessor, former township  
40                  assessor, former employee or contract employee of a county assessor

1 or township assessor, or an independent contractor formerly employed  
2 by a county assessor or township assessor may not serve as a tax  
3 representative for or otherwise assist another person in an assessment  
4 appeal before a county board or the Indiana board if:

5 (1) the appeal involves the assessment of property located in:  
6 (A) the county in which the individual was the county assessor  
7 or was an employee, contract employee, or independent  
8 contractor of the county assessor; or  
9 (B) the township in which the individual was the township  
10 assessor or was an employee, contract employee, or  
11 independent contractor of the township assessor; and  
12 (2) while the individual was the county assessor or township  
13 assessor, was employed by or a contract employee of the county  
14 assessor or the township assessor, or was an independent  
15 contractor for the county assessor or the township assessor, the  
16 individual personally and substantially participated in the  
17 assessment of the property.

18 The prohibition under this subsection applies regardless of whether the  
19 individual receives any compensation for the representation or  
20 assistance. However, this subsection does not prohibit an individual  
21 from appearing before the Indiana board or county board regarding  
22 property owned by the individual.

23 (e) The department shall prepare and make available to taxpayers a  
24 power of attorney form that allows the owner of property that is the  
25 subject of an appeal under this article to appoint a relative (as defined  
26 in IC 2-2.2-1-17) for specific assessment years to represent the owner  
27 concerning the appeal before the county board or the department of  
28 local government finance. A relative who is appointed by the owner of  
29 the property under this subsection:

30 (1) may represent the owner before the county board or the  
31 department of local government finance but not the Indiana board  
32 concerning the appeal; and  
33 (2) is not required to be certified as a tax representative in order  
34 to represent the owner concerning the appeal.

35 (f) Notwithstanding any other law, but subject to subsections (b) and  
36 (d) and IC 6-1.1-31.7-3.5, an individual may serve as a tax  
37 representative of any taxpayer concerning property subject to property  
38 taxes in the county:

39 (1) before the county board of that county, if:  
40 (A) the individual is certified as a level two assessor-appraiser

under IC 6-1.1-35.5; and

(B) the taxpayer ~~authorizes~~ has provided written authorization, which may not be electronic and may not be effective for more than one (1) year, to the individual to serve as the taxpayer's tax representative on a form that: is:

(i) is prepared by the department of local government finance; and

(ii) contains an attestation that the taxpayer has provided written authorization for the individual designated to serve as the taxpayer's tax representative; and

(iii) is submitted with the taxpayer's notice to initiate an appeal; or

(2) before the county board of that county or the Indiana board, if:

(A) the individual is certified as a level three assessor-appraiser under IC 6-1.1-35.5; and

**(B) the taxpayer has provided written authorization, which may not be electronic and may not be effective for more than one (1) year, to the individual to serve as the taxpayer's tax representative on a form that:**

(i) is prepared by the department of local government finance;

(ii) contains an attestation that the taxpayer has provided written authorization for the individual designated to serve as the taxpayer's tax representative; and

**(iii) is submitted with the taxpayer's notice to initiate an appeal.**

The taxpayer must also have a signed agreement with the individual designated to serve as the taxpayer's tax representative which must be attested to by the taxpayer as required under subdivisions (1) and (2).

33 SECTION 5. IC 6-1.1-15-20, AS ADDED BY P.L.174-2022,  
34 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 UPON PASSAGE]: Sec. 20. (a) In an appeal under this chapter, ~~except~~  
36 as provided in subsection (b), the assessment as last determined by an  
37 assessing official or the county board is presumed to be equal to the  
38 property's true tax value until rebutted by evidence presented by the  
39 parties.

40 (b) If a property's assessment increased more than five percent (5%)

1 over the property's assessment for the prior tax year, then the  
 2 assessment is no longer presumed to be equal to the property's true tax  
 3 value, and the assessing official has the burden of proof.

4 (c) (b) For purposes of this chapter, an assessment for a prior tax  
 5 year means the final value:

- 6 (1) as last corrected by an assessing official;
- 7 (2) as stipulated or settled by the taxpayer and the assessing  
 8 official; or
- 9 (3) as determined by a reviewing authority.

10 (d) Subsection (b) does not apply if the increase in the assessment  
 11 on appeal is based on:

- 12 (1) substantial renovations or new improvements;
- 13 (2) zoning; or
- 14 (3) uses;

15 that were not considered in the assessment for the prior tax year.

16 (e) (c) Both parties in an appeal under this chapter may present  
 17 evidence of the true tax value of the property, seeking to decrease or  
 18 increase the assessment.

19 (f) (d) In an appeal under this chapter, the Indiana board shall, as  
 20 trier of fact, weigh the evidence and decide the true tax value of the  
 21 property as compelled by the totality of the probative evidence before  
 22 it. The Indiana board's determination of the property's true tax value  
 23 may be higher or lower than the assessment or the value proposed by  
 24 a party or witness. If the totality of the evidence presented to the  
 25 Indiana board is insufficient to determine the property's true tax value  
 26 in an appeal governed by subsection (a), then the property's assessment  
 27 is presumed to be equal to the property's true tax value. If the totality  
 28 of the evidence presented to the Indiana board is insufficient to  
 29 determine the property's true tax value in an appeal, governed by  
 30 subsection (b), then the property's prior year assessment is presumed  
 31 to be equal to the property's true tax value.

32 (g) (e) The Indiana board shall hear its matters without regard to  
 33 motions related to notice pleading or judgments on the evidence.

34 (h) This section applies only to appeals filed after the effective date  
 35 of this section as added by HEA 1260-2022."

36 Page 7, delete lines 29 through 32, begin a new paragraph and  
 37 insert:

38 **"Sec. 1. As used in this chapter, "first time home buyer" means  
 39 an individual who is buying a home in Indiana for the first time  
 40 and who has not had an ownership interest in a home at any time**

1 preceding the date on which the individual purchases a home. The  
2 term includes a married couple if one (1) spouse satisfies the  
3 definition set forth in this section.".

4 Page 14, between lines 11 and 12, begin a new paragraph and insert:  
5 "SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The  
6 department of local government finance shall prepare a report  
7 regarding the creation of a standard Internet user portal through  
8 which taxpayers may make property tax payments on at least a  
9 monthly basis by means of an electronic funds transfer. The report  
10 must contain the following information:

11 (1) The number of counties that allow monthly payments and  
12 if the payments are made by an electronic funds transfer.  
13 (2) The cost to the county to purchase the software necessary  
14 to create the portal.  
15 (3) Whether the county charges the user a fee.  
16 (4) The percentage of taxpayers that pay property taxes on a  
17 monthly basis.  
18 (5) How the county confirms that the property taxes are paid  
19 timely.

20 In compiling the report, the department of local government  
21 finance shall also solicit bids from at least three (3) vendors to  
22 obtain estimates of the cost to the department of local government  
23 finance to purchase the software needed to allow for monthly  
24 payments and if there would be an additional cost for a county to  
25 obtain a license to use the software.

26 (b) The department of local government finance shall present  
27 the report prepared under subsection (a) to the interim study  
28 committee on fiscal policy on or before November 1, 2026.

29 (c) This SECTION expires July 1, 2027.

30 SECTION 16. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-15-20,  
31 as amended by this act, applies as follows:

32 (1) To an appeal filed under IC 6-1.1-15 on or after the  
33 effective date of this act.

34 (2) To an appeal filed under IC 6-1.1-15 before the effective  
35 date of this act that is pending on the effective date of this act.

36 (b) This SECTION expires December 31, 2028.".

37 Renumber all SECTIONS consecutively.

(Reference is to SB 163 as introduced.)