

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.

(b) If the taxpayer:

(1) appeals an increased assessment as described in subsection (a) to the county property tax assessment board of appeals or the Indiana board; and

(2) prevails in an appeal described in subdivision (1) or any resulting subsequent appeal of the increased assessment described in subsection (a);

the assessing official shall not increase the assessed value of the property until the first year of the next four (4) year cyclical assessment cycle for any reason other than by application of the annual adjustment factor used by the assessing official to adjust property values for a tax year. During this period, the taxpayer may not appeal an increased assessment made by the assessor unless the taxpayer believes that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year. If the taxpayer does appeal during this period on the grounds that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year, the ~~provision shifting the burden to the~~ assessing official **has the burden** to prove that the assessment is correct under ~~IC 6-1.1-15-17.2(d) (before its repeal) or IC 6-1.1-15-20. does not~~ apply.

(c) This section does not apply if:

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

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

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

Page 5, delete lines 41 through 42.

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

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

(1) no additional information may be introduced by a county assessor in determining the appeal beyond the information:

(A) used by the county assessor or third party contractor 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

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

(1) the appeal involves the assessment of property located in:

(A) the county in which the individual was the county assessor or was an employee, contract employee, or independent contractor of the county assessor; or

(B) the township in which the individual was the township assessor or was an employee, contract employee, or independent contractor of the township assessor; and

(2) while the individual was the county assessor or township assessor, was employed by or a contract employee of the county assessor or the township assessor, or was an independent contractor for the county assessor or the township assessor, the individual personally and substantially participated in the assessment of the property.

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

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

(1) may represent the owner before the county board or the department of local government finance but not the Indiana board concerning the appeal; and

(2) is not required to be certified as a tax representative in order to represent the owner concerning the appeal.

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

(1) before the county board of that county, if:

(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**

~~(ii)~~ (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).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Page 14, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The department of local government finance shall prepare a report regarding the creation of a standard Internet user portal through which taxpayers may make property tax payments on at least a monthly basis by means of an electronic funds transfer. The report must contain the following information:

(1) The number of counties that allow monthly payments and if the payments are made by an electronic funds transfer.

(2) The cost to the county to purchase the software necessary to create the portal.

(3) Whether the county charges the user a fee.

(4) The percentage of taxpayers that pay property taxes on a monthly basis.

(5) How the county confirms that the property taxes are paid timely.

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

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

(c) This SECTION expires July 1, 2027.

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

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

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

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

Renumber all SECTIONS consecutively.

(Reference is to SB 163 as introduced.)