

# HOUSE BILL No. 1386

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-15.

**Synopsis:** Assessment matters. Adds an objective factual error to the list of claims of errors that a taxpayer may raise in an appeal of an assessment. Requires a form requesting an appeal of the Indiana board of tax review to include a line for a petitioner to state that the action is based on a correction of objective factual error appeal. Provides that the county assessor or township assessor making the assessment has the burden of proof in an appeal concerning the correction of an objective factual error in an appeal before the Indiana board of tax review.

**Effective:** July 1, 2021.

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## VanNatter, Abbott

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January 14, 2021, read first time and referred to Committee on Ways and Means.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1386

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 6-1.1-15-1.1, AS AMENDED BY P.L.159-2020,  
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 1.1. (a) A taxpayer may appeal an assessment of  
4 a taxpayer's tangible property by filing a notice in writing with the  
5 township assessor, or the county assessor if the township is not served  
6 by a township assessor. Except as provided in subsections (e) and (h),  
7 an appeal under this section may raise any claim of an error related to  
8 the following:  
9 (1) The assessed value of the property.  
10 (2) The assessment was against the wrong person.  
11 (3) The approval, denial, or omission of a deduction, credit,  
12 exemption, abatement, or tax cap.  
13 (4) A clerical, mathematical, or typographical mistake, **or other**  
14 **objective factual error.**  
15 (5) The description of the real property.  
16 (6) The legality or constitutionality of a property tax or  
17 assessment.



1 A written notice under this section must be made on a form designated  
 2 by the department of local government finance. A taxpayer must file a  
 3 separate petition for each parcel.

4 (b) A taxpayer may appeal an error in the assessed value of the  
 5 property under subsection (a)(1) any time after the official's action, but  
 6 not later than the following:

7 (1) For assessments before January 1, 2019, the earlier of:

8 (A) forty-five (45) days after the date on which the notice of  
 9 assessment is mailed by the county; or

10 (B) forty-five (45) days after the date on which the tax  
 11 statement is mailed by the county treasurer, regardless of  
 12 whether the assessing official changes the taxpayer's  
 13 assessment.

14 (2) For assessments of real property after December 31, 2018, the  
 15 earlier of:

16 (A) June 15 of the assessment year, if the notice of assessment  
 17 is mailed by the county before May 1 of the assessment year;  
 18 or

19 (B) June 15 of the year in which the tax statement is mailed by  
 20 the county treasurer, if the notice of assessment is mailed by  
 21 the county on or after May 1 of the assessment year.

22 (3) For assessments of personal property, forty-five (45) days after  
 23 the date on which the county mails the notice under  
 24 IC 6-1.1-3-20.

25 A taxpayer may appeal an error in the assessment under subsection  
 26 (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) not later than three (3) years after  
 27 the taxes were first due.

28 (c) Except as provided in subsection (d), an appeal under this  
 29 section applies only to the tax year corresponding to the tax statement  
 30 or other notice of action.

31 (d) An appeal under this section applies to a prior tax year if a  
 32 county official took action regarding a prior tax year, and such action  
 33 is reflected for the first time in the tax statement. A taxpayer who has  
 34 timely filed a written notice of appeal under this section may be  
 35 required to file a petition for each tax year, and each petition filed later  
 36 must be considered timely.

37 (e) A taxpayer may not appeal under this section any claim of error  
 38 related to the following:

39 (1) The denial of a deduction, exemption, abatement, or credit if  
 40 the authority to approve or deny is not vested in the county board,  
 41 county auditor, county assessor, or township assessor.

42 (2) The calculation of interest and penalties.



- 1 (3) A matter under subsection (a) if a separate appeal or review  
 2 process is statutorily prescribed.  
 3 However, a claim may be raised under this section regarding the  
 4 omission or application of a deduction approved by an authority other  
 5 than the county board, county auditor, county assessor, or township  
 6 assessor.
- 7 (f) The filing of a written notice under this section constitutes a  
 8 request by the taxpayer for a preliminary informal meeting with the  
 9 township assessor, or the county assessor if the township is not served  
 10 by a township assessor.
- 11 (g) A county or township official who receives a written notice  
 12 under this section shall forward the notice to:
- 13 (1) the county board; and
  - 14 (2) the county auditor, if the taxpayer raises a claim regarding a  
 15 matter that is in the discretion of the county auditor.
- 16 (h) A taxpayer may not raise any claim in an appeal under this  
 17 section related to the legality or constitutionality of:
- 18 (1) a user fee (as defined in IC 33-23-1-10.5);
  - 19 (2) any other charge, fee, or rate imposed by a political  
 20 subdivision under any other law; or
  - 21 (3) any tax imposed by a political subdivision other than a  
 22 property tax.
- 23 SECTION 2. IC 6-1.1-15-3, AS AMENDED BY P.L.154-2020,  
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2021]: Sec. 3. (a) A taxpayer may obtain a review by the  
 26 Indiana board of:
- 27 (1) a county board's action with respect to a claim under section  
 28 1.1 of this chapter; or
  - 29 (2) a denial by the county auditor, the county assessor, or the  
 30 county treasurer of a claim for refund under IC 6-1.1-9-10(c)(2)  
 31 that is appealed to the Indiana board as authorized in  
 32 IC 6-1.1-26-2.1(d)(2).
- 33 (b) The county assessor is the party to a review under subsection  
 34 (a)(1) to defend the determination of the county board. The county  
 35 auditor may appear as an additional party to the review if the  
 36 determination concerns a matter that is in the discretion of the county  
 37 auditor. At the time the notice of that determination is given to the  
 38 taxpayer, the taxpayer shall also be informed in writing of:
- 39 (1) the taxpayer's opportunity for review under subsection (a)(1);  
 40 and
  - 41 (2) the procedures the taxpayer must follow in order to obtain  
 42 review under this section.



1 (c) A county assessor who dissents from the determination of the  
 2 county board may obtain a review by the Indiana board. A county  
 3 auditor who dissents from the determination of the county board  
 4 concerning a matter that is in the discretion of the county auditor may  
 5 obtain a review by the Indiana board.

6 (d) In order to obtain a review by the Indiana board under  
 7 subsection (a)(1), the party must, not later than forty-five (45) days  
 8 after the date of the notice given to the party or parties of the  
 9 determination of the county board:

10 (1) file a petition for review with the Indiana board; and

11 (2) mail a copy of the petition to the other party.

12 (e) The Indiana board shall prescribe the form of the petition for  
 13 review under this chapter. The Indiana board shall issue instructions for  
 14 completion of the form. The form and the instructions must be clear,  
 15 simple, and understandable to the average individual. A petition for  
 16 review of such a determination must be made on the form prescribed  
 17 by the Indiana board. The form must require the petitioner to specify  
 18 the reasons why the petitioner believes that the determination by the  
 19 county board is erroneous. **The form must include a line on which  
 20 the petitioner shall state that the action for which the petitioner  
 21 seeks review under this section is based on a correction of objective  
 22 factual error appeal, if the correction of an error described in  
 23 section 1.1(a)(4) of this chapter is the basis for the petition for  
 24 review.**

25 (f) If the action for which a taxpayer seeks review under this section  
 26 is the assessment of tangible property, the taxpayer is not required to  
 27 have an appraisal of the property in order to do the following:

28 (1) Initiate the review.

29 (2) Prosecute the review.

30 (g) If an owner petitions the Indiana board under IC 6-1.1-11-7(d),  
 31 the Indiana board is authorized to approve or disapprove an exemption  
 32 application:

33 (1) previously submitted to a county board under IC 6-1.1-11-6;  
 34 and

35 (2) that is not approved or disapproved by the county board within  
 36 one hundred eighty (180) days after the owner filed the  
 37 application for exemption under IC 6-1.1-11.

38 The county assessor is a party to a petition to the Indiana board under  
 39 IC 6-1.1-11-7(d).

40 (h) This subsection applies only to the review by the Indiana board  
 41 of a denial of a refund claim described in subsection (a)(2). The county  
 42 assessor is the party to a review under subsection (a)(2) to defend the



1 denial of the refund under IC 6-1.1-26-2.1. In order to obtain a review  
 2 by the Indiana board under subsection (a)(2), the taxpayer must, within  
 3 forty-five (45) days of the notice of denial under IC 6-1.1-26-2.1(d):

4 (1) file a petition for review with the Indiana board; and

5 (2) mail a copy of the petition to the county auditor.

6 SECTION 3. IC 6-1.1-15-4, AS AMENDED BY P.L.156-2020,  
 7 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2021]: Sec. 4. (a) After receiving a petition for review which  
 9 is filed under section 3 of this chapter, the Indiana board shall conduct  
 10 a hearing at its earliest opportunity. The Indiana board may correct any  
 11 errors related to a claim under section 1.1 of this chapter that is within  
 12 the jurisdiction of the Indiana board under IC 6-1.5-4-1.

13 (b) If the Indiana board conducts a site inspection of the property as  
 14 part of its review of the petition, the Indiana board shall give notice to  
 15 all parties of the date and time of the site inspection. The Indiana board  
 16 is not required to assess the property in question. The Indiana board  
 17 shall give notice of the date fixed for the hearing, by mail, to the parties  
 18 or a party's representative. The Indiana board shall give these notices  
 19 at least thirty (30) days before the day fixed for the hearing unless the  
 20 parties agree to a shorter period. With respect to a petition for review  
 21 filed by a county assessor, the county board that made the  
 22 determination under review under this section may file an amicus  
 23 curiae brief in the review proceeding under this section. The expenses  
 24 incurred by the county board in filing the amicus curiae brief shall be  
 25 paid from the property reassessment fund under IC 6-1.1-4-27.5 of the  
 26 county in which the property is located. The executive of a taxing unit  
 27 may file an amicus curiae brief in the review proceeding under this  
 28 section if the property that is the subject of the appeal is subject to  
 29 assessment by that taxing unit.

30 (c) If a petition for review does not comply with the Indiana board's  
 31 instructions for completing the form prescribed under section 3 of this  
 32 chapter, the Indiana board shall return the petition to the petitioner and  
 33 include a notice describing the defect in the petition. The petitioner  
 34 then has thirty (30) days from the date on the notice to cure the defect  
 35 and file a corrected petition. The Indiana board shall deny a corrected  
 36 petition for review if it does not substantially comply with the Indiana  
 37 board's instructions for completing the form prescribed under section  
 38 3 of this chapter.

39 (d) After the hearing, the Indiana board shall give the parties and  
 40 any entity that filed an amicus curiae brief, or their representatives:

41 (1) notice, by mail, of its final determination; and

42 (2) for parties entitled to appeal the final determination, notice of



- 1 the procedures they must follow in order to obtain court review  
 2 under section 5 of this chapter.
- 3 (e) The Indiana board shall conduct a hearing not later than one (1)  
 4 year after a petition in proper form is filed with the Indiana board.
- 5 (f) The Indiana board shall issue a determination not later than the  
 6 later of:
- 7 (1) ninety (90) days after the hearing; or  
 8 (2) the date set in an extension order issued by the Indiana board.  
 9 The board may not extend the date by more than one hundred  
 10 eighty (180) days.
- 11 (g) The time periods described in subsections (e) and (f) do not  
 12 include any period of time that is attributable to a party's:
- 13 (1) request for a continuance, stay, extension, or summary  
 14 disposition;  
 15 (2) consent to a case management order, stipulated record, or  
 16 proposed hearing date;  
 17 (3) failure to comply with the board's orders or rules; or  
 18 (4) waiver of a deadline.
- 19 (h) If the Indiana board fails to take action required under  
 20 subsection (e) or (f), the entity that initiated the petition may:
- 21 (1) take no action and wait for the Indiana board to hear the  
 22 matter and issue a final determination; or  
 23 (2) petition for judicial review under section 5 of this chapter.
- 24 (i) This subsection applies when the board has not held a hearing.  
 25 A person may not seek judicial review under subsection (h)(2) until:
- 26 (1) the person requests a hearing in writing; and  
 27 (2) sixty (60) days have passed after the person requests a hearing  
 28 under subdivision (1) and the matter has not been heard or  
 29 otherwise extended under subsection (g).
- 30 (j) A final determination must include separately stated findings of  
 31 fact for all aspects of the determination. Findings of ultimate fact must  
 32 be accompanied by a concise statement of the underlying basic facts of  
 33 record to support the findings. Findings must be based exclusively  
 34 upon the evidence on the record in the proceeding and on matters  
 35 officially noticed in the proceeding. Findings must be based upon a  
 36 preponderance of the evidence. **If the appeal is based on a correction  
 37 of objective factual error, the final determination must be based  
 38 exclusively on the validity of correcting the objective factual error,  
 39 without regard to any change a correction would have on the  
 40 assessment outcome.**
- 41 (k) The Indiana board may limit the scope of the appeal to the issues  
 42 raised in the petition and the evaluation of the evidence presented to



1 the county board in support of those issues only if all parties  
 2 participating in the hearing required under subsection (a) agree to the  
 3 limitation. A party participating in the hearing required under  
 4 subsection (a) is entitled to introduce evidence that is otherwise proper  
 5 and admissible without regard to whether that evidence has previously  
 6 been introduced at a hearing before the county board.

7 (l) The Indiana board may require the parties to the appeal:

8 (1) to file not more than five (5) business days before the date of  
 9 the hearing required under subsection (a) documentary evidence  
 10 or summaries of statements of testimonial evidence; and

11 (2) to file not more than fifteen (15) business days before the date  
 12 of the hearing required under subsection (a) lists of witnesses and  
 13 exhibits to be introduced at the hearing.

14 (m) A party to a proceeding before the Indiana board shall provide  
 15 to all other parties to the proceeding the information described in  
 16 subsection (l) if the other party requests the information in writing at  
 17 least ten (10) days before the deadline for filing of the information  
 18 under subsection (l).

19 (n) The Indiana board may base its final determination on a  
 20 stipulation between the respondent and the petitioner. If the final  
 21 determination is based on a stipulated assessed valuation of tangible  
 22 property, the Indiana board may order the placement of a notation on  
 23 the permanent assessment record of the tangible property that the  
 24 assessed valuation was determined by stipulation. The Indiana board  
 25 may:

26 (1) order that a final determination under this subsection has no  
 27 precedential value; or

28 (2) specify a limited precedential value of a final determination  
 29 under this subsection.

30 (o) If a party to a proceeding, or a party's authorized representative,  
 31 elects to receive any notice under this section by electronic mail, the  
 32 notice is considered effective in the same manner as if the notice had  
 33 been sent by United States mail, with postage prepaid, to the party's or  
 34 representative's mailing address of record.

35 (p) At a hearing under this section, the Indiana board shall admit  
 36 into evidence an appraisal report, prepared by an appraiser, unless the  
 37 appraisal report is ruled inadmissible on grounds besides a hearsay  
 38 objection. This exception to the hearsay rule shall not be construed to  
 39 limit the discretion of the Indiana board, as trier of fact, to review the  
 40 probative value of an appraisal report.

41 SECTION 4. IC 6-1.1-15-17.5 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS





1 [EFFECTIVE JULY 1, 2021]: **Sec. 17.5. This section applies to an**  
2 **appeal before the Indiana board of tax review under this chapter**  
3 **if the subject of the appeal is the correction of an objective factual**  
4 **error. Under this section, the county assessor or township assessor**  
5 **making the assessment has the burden of proving that the**  
6 **assessment is correct and that the issue is not objective in any**  
7 **appeal taken to the Indiana board of tax review. If a county**  
8 **assessor or township assessor fails to meet the burden of proof**  
9 **under this section, the taxpayer may introduce evidence to prove**  
10 **the objective factual error.**

