



February 10, 2017

HOUSE BILL No. 1536

DIGEST OF HB 1536 (Updated February 9, 2017 9:07 am - DI 84)

Citations Affected: IC 6-1.1.

Synopsis: Tax sales. Specifies deadlines related to acquiring a tax deed for real property if a county assigns a certificate of sale for the real property to a political subdivision. Eliminates a conflict with an administrative order of the Indiana supreme court concerning cause numbers. Provides that a person who wishes to challenge the validity of a tax sale or a tax deed ordered by a court must show by clear and convincing evidence that an error or other irregularity affected the substantial justice of the tax sale or violated the due process of law.

Effective: July 1, 2017.

**Engleman, Miller D, Mahan,
GiaQuinta**

January 18, 2017, read first time and referred to Committee on Local Government.
February 9, 2017, reported — Do Pass.

HB 1536—LS 7351/DI 113



February 10, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1536

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 6-1.1-24-9, AS AMENDED BY P.L.251-2015,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 9. (a) Immediately after a tax sale purchaser pays
4 the bid, as evidenced by the receipt of the county treasurer, or
5 immediately after the county acquires a lien under section 6 of this
6 chapter, the county auditor shall deliver a certificate of sale to the
7 purchaser or to the county or to the city. The certificate shall be signed
8 by the auditor and registered in the auditor's office. The certificate shall
9 contain:
10 (1) a description of real property that corresponds to the
11 description used on the notice of sale;
12 (2) the name of:
13 (A) the owner of record at the time of the sale of real property
14 with a single owner; or
15 (B) at least one (1) of the owners of real property with multiple
16 owners;
17 (3) the mailing address of the owner of the real property sold as

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- 1 indicated in the records of the county auditor;
 2 (4) the name of the purchaser;
 3 (5) the date of sale;
 4 (6) the amount for which the real property was sold;
 5 (7) the amount of the minimum bid for which the tract or real
 6 property was offered at the time of sale as required by section 5
 7 of this chapter;
 8 (8) the date when the period of redemption specified in
 9 IC 6-1.1-25-4 will expire;
 10 (9) the court cause number under which judgment was obtained;
 11 and
 12 (10) the street address, if any, or common description of the real
 13 property.

14 (b) When a certificate of sale is issued under this section, the
 15 purchaser acquires a lien against the real property for the entire amount
 16 paid. The lien of the purchaser is superior to all liens against the real
 17 property which exist at the time the certificate is issued.

18 (c) A certificate of sale is assignable. However, an assignment is not
 19 valid unless it is acknowledged before an officer authorized to take
 20 acknowledgments of deeds, and registered in the office of the county
 21 auditor. When a certificate of sale is assigned, the assignee acquires the
 22 same rights and obligations that the original purchaser acquired.

23 (d) Subject to IC 36-1-11-8, the county executive may assign a
 24 certificate of sale held in the name of the county executive to any
 25 political subdivision. If an assignment is made under this subsection:

26 (1) the period of redemption of the real property under
 27 IC 6-1.1-25 is one hundred twenty (120) days after the date of the
 28 assignment; **and**

29 (2) **notwithstanding IC 6-1.1-25-4.5(a) through**
 30 **IC 6-1.1-25-4.5(c), the assignee must transmit the notices**
 31 **required under IC 6-1.1-25-4.5 not later than ninety (90) days**
 32 **after the date of the assignment.**

33 **If the real property is not redeemed during the period of**
 34 **redemption, the assignee may petition the court for a tax deed**
 35 **under IC 6-1.1-25-4.6 not later than ninety (90) days after the**
 36 **expiration of the period of redemption.**

37 SECTION 2. IC 6-1.1-25-4.6, AS AMENDED BY P.L.183-2016,
 38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2017]: Sec. 4.6. (a) After the expiration of the redemption
 40 period specified in section 4 of this chapter but not later than three (3)
 41 months after the expiration of the period of redemption:

42 (1) the purchaser, the purchaser's assignee, the county executive,



- 1 the county executive's assignee, or the purchaser of the certificate
 2 of sale under IC 6-1.1-24-6.1 may; or
 3 (2) in a county where the county auditor and county treasurer
 4 have an agreement under section 4.7 of this chapter, the county
 5 auditor shall, upon the request of the purchaser or the purchaser's
 6 assignee;
- 7 file a verified petition in accordance with subsection (b) in the same
 8 court ~~and under the same cause number~~ in which the judgment of sale
 9 was entered asking the court to direct the county auditor to issue a tax
 10 deed if the real property is not redeemed from the sale. Notice of the
 11 filing of this petition shall be given to the same parties as provided in
 12 section 4.5 of this chapter, except that, if notice is given by publication,
 13 only one (1) publication is required. The notice required by this section
 14 is considered sufficient if the notice is sent to the address required by
 15 section 4.5(d) of this chapter. Any person owning or having an interest
 16 in the tract or item of real property may file a written objection to the
 17 petition with the court not later than thirty (30) days after the date the
 18 petition was filed. If a written objection is timely filed, the court shall
 19 conduct a hearing on the objection. If there is not a written objection
 20 that is timely filed, the court may consider the petition without
 21 conducting a hearing.
- 22 (b) Unless the county auditor and the county treasurer have entered
 23 into an agreement under section 4.7 of this chapter, a verified petition
 24 filed under subsection (a) may include the following:
- 25 (1) Copies of all notices sent under section 4.5 of this chapter.
 - 26 (2) Copies of all notices sent under this section.
 - 27 (3) Copies of all certified mail mailing receipts, return receipts,
 28 and returned mailing envelopes for notices sent under section 4.5
 29 of this chapter.
 - 30 (4) Copies of all certified mail mailing receipts, return receipts,
 31 and returned mailing envelopes for notices sent under this section.
 - 32 (5) Copies or descriptions of the evidence used by the petitioner
 33 or the petitioner's assignor to identify the owner and other persons
 34 with a substantial property interest of public record in the real
 35 property.
- 36 (c) If the purchaser or the purchaser's assignee includes the
 37 documents described in subsection (b), the issuance of a tax deed
 38 constitutes prima facie evidence of the sale referenced in subsection
 39 (k).
- 40 (d) If a verified petition is brought by the county auditor under an
 41 agreement provided for under section 4.7 of this chapter, a tax deed
 42 constitutes prima facie evidence of the validity of the sale referenced



1 in subsection (k) upon timely production by the county of all
 2 documents described in subsection (b) in response to a challenge to a
 3 tax deed.

4 (e) If the issuance of a tax deed does not constitute prima facie
 5 evidence of the validity of the sale due to the failure to comply with
 6 this section, the purchaser or the purchaser's successor has the burden
 7 of proving the validity of the sale by a preponderance of the evidence
 8 in any subsequent challenge to the sale.

9 (f) Not later than sixty-one (61) days after the petition is filed under
 10 subsection (a), the court shall enter an order directing the county
 11 auditor (on the production of the certificate of sale and a copy of the
 12 order) to issue to the petitioner a tax deed if the court finds that the
 13 following conditions exist:

14 (1) The time of redemption has expired.

15 (2) The tract or item of real property has not been redeemed from
 16 the sale before the expiration of the period of redemption
 17 specified in section 4 of this chapter.

18 (3) Except with respect to a petition for the issuance of a tax deed
 19 under a sale of the certificate of sale on the property under
 20 IC 6-1.1-24-6.1 or IC 6-1.1-24-6.8, or with respect to penalties
 21 described in section 4(j) of this chapter, all taxes and special
 22 assessments, penalties, and costs have been paid.

23 (4) The notices required by this section and section 4.5 of this
 24 chapter have been given.

25 (5) The petitioner has complied with all the provisions of law
 26 entitling the petitioner to a deed.

27 The county auditor shall execute deeds issued under this subsection in
 28 the name of the state under the county auditor's name. If a certificate of
 29 sale is lost before the execution of a deed, the county auditor shall issue
 30 a replacement certificate if the county auditor is satisfied that the
 31 original certificate existed.

32 (g) Upon application by the grantee of a valid tax deed in the same
 33 court ~~and under the same cause number~~ in which the judgment of sale
 34 was entered, the court shall enter an order to place the grantee of a
 35 valid tax deed in possession of the real estate. The court may enter any
 36 orders and grant any relief that is necessary or desirable to place or
 37 maintain the grantee of a valid tax deed in possession of the real estate.

38 (h) Except as provided in subsections (i) and (j), if:

39 (1) the verified petition referred to in subsection (a) is timely
 40 filed; and

41 (2) the court refuses to enter an order directing the county auditor
 42 to execute and deliver the tax deed because of the failure of the



- 1 petitioner under subsection (a) to fulfill the notice requirement of
 2 subsection (a);
 3 the court shall order the return of the amount, if any, by which the
 4 purchase price exceeds the minimum bid on the property under
 5 IC 6-1.1-24-5 minus a penalty of twenty-five percent (25%) of that
 6 excess. The petitioner is prohibited from participating in any manner
 7 in the next succeeding tax sale in the county under IC 6-1.1-24. The
 8 county auditor shall deposit penalties paid under this subsection in the
 9 county general fund.
- 10 (i) Notwithstanding subsection (h), in all cases in which:
- 11 (1) the verified petition referred to in subsection (a) is timely
 12 filed;
 - 13 (2) the petitioner under subsection (a) has made a bona fide
 14 attempt to comply with the statutory requirements under
 15 subsection (f) for the issuance of the tax deed but has failed to
 16 comply with these requirements;
 - 17 (3) the court refuses to enter an order directing the county auditor
 18 to execute and deliver the tax deed because of the failure to
 19 comply with these requirements; and
 - 20 (4) the purchaser, the purchaser's successors or assignees, or the
 21 purchaser of the certificate of sale under IC 6-1.1-24 files a claim
 22 with the county auditor for refund not later than thirty (30) days
 23 after the entry of the order of the court refusing to direct the
 24 county auditor to execute and deliver the tax deed;
- 25 the county auditor shall not execute the deed but shall refund the
 26 purchase money minus a penalty of twenty-five percent (25%) of the
 27 purchase money from the county treasury to the purchaser, the
 28 purchaser's successors or assignees, or the purchaser of the certificate
 29 of sale under IC 6-1.1-24. The county auditor shall deposit penalties
 30 paid under this subsection in the county general fund. All the
 31 delinquent taxes and special assessments shall then be reinstated and
 32 recharged to the tax duplicate and collected in the same manner as if
 33 the property had not been offered for sale. The tract or item of real
 34 property, if it is then eligible for sale under IC 6-1.1-24, shall be placed
 35 on the delinquent list as an initial offering under IC 6-1.1-24.
- 36 (j) Notwithstanding subsections (h) and (i), the court shall not order
 37 the return of the purchase price or any part of the purchase price if:
- 38 (1) the purchaser or the purchaser of the certificate of sale under
 39 IC 6-1.1-24 has failed to provide notice or has provided
 40 insufficient notice as required by section 4.5 of this chapter; and
 - 41 (2) the sale is otherwise valid.
- 42 (k) A tax deed executed under this section vests in the grantee an



1 estate in fee simple absolute, free and clear of all liens and
 2 encumbrances created or suffered before or after the tax sale except
 3 those liens granted priority under federal law, and the lien of the state
 4 or a political subdivision for taxes and special assessments that accrue
 5 subsequent to the sale. However, the estate is subject to all easements,
 6 covenants, declarations, and other deed restrictions and laws governing
 7 land use, including all zoning restrictions and liens and encumbrances
 8 created or suffered by the purchaser at the tax sale. Except as provided
 9 in subsections (b), (c), (d), and (e), the deed is prima facie evidence of:

- 10 (1) the regularity of the sale of the real property described in the
 11 deed;
 12 (2) the regularity of all proper proceedings; and
 13 (3) valid title in fee simple in the grantee of the deed.

14 (l) A tax deed issued under this section is incontestable except by
 15 appeal from the order of the court directing the county auditor to issue
 16 the tax deed filed not later than sixty (60) days after the date of the
 17 court's order.

18 SECTION 3. IC 6-1.1-25-11, AS AMENDED BY P.L.251-2015,
 19 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2017]: Sec. 11. (a) Subsequent to the issuance of the order
 21 directing the county auditor to issue a tax deed to real property sold
 22 under IC 6-1.1-24, a county auditor shall refund:

- 23 (1) the purchase money and all taxes and special assessments on
 24 the property paid by the purchaser, the purchaser's assigns, or the
 25 purchaser of the certificate of sale under IC 6-1.1-24 after the tax
 26 sale plus five percent (5%) interest per annum; and
 27 (2) the costs described in section 2(e) of this chapter, if the costs
 28 were certified before the expiration of the period of redemption,
 29 subject to section 2.5 of this chapter;

30 from the county treasury to the purchaser, the purchaser's successors or
 31 assigns, or the purchaser of the certificate of sale under IC 6-1.1-24 if
 32 it is found by the court that entered the order for the tax deed that the
 33 sale was invalid.

34 **(b) An error or informality in the proceedings or conduct of any**
 35 **of the officers involved with the assessment, levying, or collection**
 36 **of the taxes that does not affect the substantial justice of the tax**
 37 **sale itself or violate due process of law does not invalidate the tax**
 38 **sale or a tax deed ordered by a court under this chapter. In a**
 39 **proceeding to invalidate the tax sale or a tax deed ordered under**
 40 **this chapter, the party seeking to invalidate the tax sale or tax deed**
 41 **bears the burden of proving the invalidity by clear and convincing**
 42 **evidence.**



- 1 ~~(b)~~ **(c)** The grantee of an invalid tax deed, including the county, to
2 whom a refund is made under this section shall execute, acknowledge,
3 and deliver to the owner a deed conveying whatever interest the
4 purchaser may have acquired by the tax sale deed. If a county is
5 required to execute a deed under this section, the deed shall be signed
6 by the county board of commissioners and acknowledged by the clerk
7 of the circuit court.
- 8 ~~(c)~~ **(d)** A refund may not be made under this section while an action
9 initiated under either section 14 or 16 of this chapter is pending.
- 10 ~~(d)~~ **(e)** If a sale is declared invalid after a claim is submitted under
11 IC 6-1.1-24-7 for money deposited in the tax sale surplus fund and the
12 claim is paid, the county auditor shall initiate an action to recover the
13 amount claimed, plus reasonable attorney's fees and any other costs
14 reasonably incurred by the county in the course of, and attributable to,
15 the recovery of the amount claimed.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1536, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1536 as introduced.)

ZENT

Committee Vote: Yeas 9, Nays 0

