

IC 6-1.1-20.6

Chapter 20.6. Credit for Excessive Residential Property Taxes

IC 6-1.1-20.6-0.3

General assembly findings

Sec. 0.3. The general assembly finds and determines the following:

(1) Lake County and St. Joseph County are counties for which limits to property tax liability under this chapter (and as described in the proposed subsection (h) of Article 10, Section 1 of the Constitution of the State of Indiana as included in Senate Joint Resolution 1 of the 2008 session of the general assembly) are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%).

(2) Lake County and St. Joseph County are each an eligible county for purposes of:

(A) the proposed subsection (h) of Article 10, Section 1 of the Constitution of the State of Indiana as included in Senate Joint Resolution 1 of the 2008 session of the general assembly; and

(B) this chapter.

As added by P.L.220-2011, SEC.127.

IC 6-1.1-20.6-0.5

"Agricultural land"

Sec. 0.5. As used in this chapter, "agricultural land" refers to land assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance.

As added by P.L.146-2008, SEC.213.

IC 6-1.1-20.6-1

Repealed

(Repealed by P.L.146-2008, SEC.811.)

IC 6-1.1-20.6-1.6

"Gross assessed value"

Sec. 1.6. As used in this chapter, "gross assessed value" refers to the assessed value of property after the application of all exemptions under IC 6-1.1-10 or any other provision.

As added by P.L.146-2008, SEC.214.

IC 6-1.1-20.6-2

"Homestead"

Sec. 2. (a) As used in this chapter, "homestead" refers to a homestead that is eligible for a standard deduction under IC 6-1.1-12-37.

(b) The term includes a house or apartment that is owned or leased by a cooperative housing corporation (as defined in 26 U.S.C.

216(b)).

As added by P.L.246-2005, SEC.62. Amended by P.L.146-2008, SEC.215; P.L.182-2009(ss), SEC.151.

IC 6-1.1-20.6-2.3

"Long term care property"

Sec. 2.3. As used in this chapter, "long term care property" means property that:

- (1) is used for the long term care of an impaired individual; and
- (2) is one (1) of the following:
 - (A) A health facility licensed under IC 16-28.
 - (B) A housing with services establishment (as defined in IC 12-10-15-3) that is allowed to use the term "assisted living" to describe the housing with services establishment's services and operations to the public.
 - (C) An independent living home that, under contractual agreement, serves not more than eight (8) individuals who:
 - (i) have a mental illness or developmental disability;
 - (ii) require regular but limited supervision; and
 - (iii) reside independently of their families.

As added by P.L.146-2008, SEC.216.

IC 6-1.1-20.6-2.4

"Manufactured home"; "mobile home"

Sec. 2.4. As used in this chapter:

- (1) "manufactured home" has the meaning set forth in IC 22-12-1-16; and
- (2) "mobile home" has the meaning set forth in IC 16-41-27-4.

As added by P.L.146-2008, SEC.217.

IC 6-1.1-20.6-2.5

"Nonresidential real property"

Sec. 2.5. (a) As used in this chapter, "nonresidential real property" refers to either of the following:

- (1) Real property that:
 - (A) is not:
 - (i) a homestead; or
 - (ii) residential property; and
 - (B) consists of:
 - (i) a building or other land improvement; and
 - (ii) the land, not exceeding the area of the building footprint or improvement footprint, on which the building or improvement is located.
- (2) Undeveloped land in the amount of the remainder of:
 - (A) the area of a parcel; minus
 - (B) the area of the parcel that is part of:
 - (i) a homestead; or
 - (ii) residential property.

(b) The term does not include agricultural land.

As added by P.L.146-2008, SEC.218.

IC 6-1.1-20.6-3

"Property tax liability"

Sec. 3. As used in this chapter, "property tax liability" means, for purposes of:

- (1) this chapter, other than section 8.5 of this chapter, liability for the tax imposed on property under this article determined after application of all credits and deductions under this article or IC 6-3.5, except the credit under this chapter, but does not include any interest or penalty imposed under this article; and
- (2) section 8.5 of this chapter, liability for the tax imposed on property under this article determined after application of all credits and deductions under this article or IC 6-3.5, including the credit granted by section 7 or 7.5 of this chapter, but not including the credit granted under section 8.5 of this chapter or any interest or penalty imposed under this article.

As added by P.L.246-2005, SEC.62. Amended by P.L.146-2008, SEC.219.

IC 6-1.1-20.6-3.5

Repealed

(Repealed by P.L.182-2009(ss), SEC.465.)

IC 6-1.1-20.6-4

"Residential property"

Sec. 4. As used in this chapter, "residential property" refers to real property that consists of any of the following:

- (1) A single family dwelling that is not part of a homestead and the land, not exceeding one (1) acre, on which the dwelling is located.
- (2) Real property that consists of:
 - (A) a building that includes two (2) or more dwelling units;
 - (B) any common areas shared by the dwelling units; and
 - (C) the land, not exceeding the area of the building footprint, on which the building is located.
- (3) Land rented or leased for the placement of a manufactured home or mobile home, including any common areas shared by the manufactured homes or mobile homes.

As added by P.L.246-2005, SEC.62. Amended by P.L.162-2006, SEC.7; P.L.146-2008, SEC.221; P.L.131-2008, SEC.4.

IC 6-1.1-20.6-5

Repealed

(Repealed by P.L.146-2008, SEC.811.)

IC 6-1.1-20.6-6

Repealed

(Repealed by P.L.146-2008, SEC.811.)

IC 6-1.1-20.6-6.5

Repealed

(Repealed by P.L.146-2008, SEC.811.)

IC 6-1.1-20.6-7

Calculation of credit

Sec. 7. (a) This subsection applies to property taxes first due and payable in 2009. A person is entitled to a credit against the person's property tax liability for property taxes first due and payable in 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

- (1) homestead exceeds one and five-tenths percent (1.5%);
- (2) residential property exceeds two and five-tenths percent (2.5%);
- (3) long term care property exceeds two and five-tenths percent (2.5%);
- (4) agricultural land exceeds two and five-tenths percent (2.5%);
- (5) nonresidential real property exceeds three and five-tenths percent (3.5%); or
- (6) personal property exceeds three and five-tenths percent (3.5%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

(b) This subsection applies to property taxes first due and payable in 2009. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

(c) This subsection applies to property taxes first due and payable in 2009. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

As added by P.L.246-2005, SEC.62. Amended by P.L.162-2006, SEC.10; P.L.224-2007, SEC.38; P.L.146-2008, SEC.222; P.L.1-2010, SEC.30.

IC 6-1.1-20.6-7.5

Calculation of credit

Sec. 7.5. (a) A person is entitled to a credit against the person's property tax liability for property taxes first due and payable after 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

- (1) homestead exceeds one percent (1%);
- (2) residential property exceeds two percent (2%);
- (3) long term care property exceeds two percent (2%);

(4) agricultural land exceeds two percent (2%);
(5) nonresidential real property exceeds three percent (3%); or
(6) personal property exceeds three percent (3%);
of the gross assessed value of the property that is the basis for
determination of property taxes for that calendar year.

(b) This subsection applies to property taxes first due and payable
after 2009. Property taxes imposed after being approved by the
voters in a referendum or local public question shall not be
considered for purposes of calculating a person's credit under this
section.

(c) This subsection applies to property taxes first due and payable
after 2009. As used in this subsection, "eligible county" means only
a county for which the general assembly determines in 2008 that
limits to property tax liability under this chapter are expected to
reduce in 2010 the aggregate property tax revenue that would
otherwise be collected by all units of local government and school
corporations in the county by at least twenty percent (20%). Property
taxes imposed in an eligible county to pay debt service or make lease
payments for bonds or leases issued or entered into before July 1,
2008, shall not be considered for purposes of calculating a person's
credit under this section.

As added by P.L.146-2008, SEC.223.

IC 6-1.1-20.6-8

Exemption from filing requirement

Sec. 8. Except as provided in section 8.5 of this chapter, a person
is not required to file an application for the credit under this chapter.
The county auditor shall:

- (1) identify the property in the county eligible for the credit
under this chapter; and
- (2) apply the credit under this chapter to property tax liability
on the identified property.

*As added by P.L.246-2005, SEC.62. Amended by P.L.162-2006,
SEC.11; P.L.146-2008, SEC.224.*

IC 6-1.1-20.6-8.5

Additional credit for certain homesteads; eligibility and filing requirements

Sec. 8.5. (a) This section applies to an individual who:

- (1) qualified for a standard deduction granted under
IC 6-1.1-12-37 for the individual's homestead property in the
immediately preceding calendar year (or was married at the
time of death to a deceased spouse who qualified for a standard
deduction granted under IC 6-1.1-12-37 for the individual's
homestead property in the immediately 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) is or will be at least sixty-five (65) years of age on or before

December 31 of the calendar year immediately preceding the current calendar year; and

(4) 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 thirty thousand dollars (\$30,000); 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 forty thousand dollars (\$40,000);

for the calendar year preceding by two (2) years the calendar year in which property taxes are first due and payable.

(b) This section does not apply if the gross assessed value of the homestead on the assessment date for which property taxes are imposed is at least one hundred sixty thousand dollars (\$160,000).

(c) An individual is entitled to an additional credit under this section for property taxes first due and payable for a calendar year on a homestead if:

(1) the individual and the homestead qualify for the credit under subsection (a) for the calendar year;

(2) the homestead is not disqualified for the credit under subsection (b) for the calendar year; and

(3) the filing requirements under subsection (e) are met.

(d) The amount of the credit is equal to the greater of zero (0) or the result of:

(1) the property tax liability first due and payable on the homestead property for the calendar year; minus

(2) the result of:

(A) the property tax liability first due and payable on the qualified homestead property for the immediately preceding year after the application of the credit granted under this section for that year; multiplied by

(B) one and two hundredths (1.02).

However, property tax liability imposed on any improvements to or expansion of the homestead property after the assessment date for which property tax liability described in subdivision (2) was imposed shall not be considered in determining the credit granted under this section in the current calendar year.

(e) Applications for a credit under this section shall be filed in the manner provided for an application for a deduction under IC 6-1.1-12-9. However, an 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. An individual who receives a credit under this section in a particular year and who becomes ineligible for the credit in the following year shall notify the auditor of the county in which the homestead is located of the individual's ineligibility not later than sixty (60) days after the individual becomes ineligible.

(f) The auditor of each county shall, in a particular year, apply a

credit provided under this section to each individual who received the credit in the preceding year unless the auditor determines that the individual is no longer eligible for the credit.

As added by P.L.146-2008, SEC.225. Amended by P.L.182-2009(ss), SEC.152; P.L.113-2010, SEC.38.

IC 6-1.1-20.6-9

Repealed

(Repealed by P.L.146-2008, SEC.810.)

IC 6-1.1-20.6-9.5

Effect of credit on revenues

Sec. 9.5. (a) This section applies only to credits under this chapter against property taxes first due and payable after December 31, 2006.

(b) The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. Except as provided in IC 20-46-1, a political subdivision may not increase its property tax levy to make up for that reduction.

(c) The county auditor shall in each calendar year notify each political subdivision in which the credit under this chapter is applied of the reduction of property tax collections referred to in subsection (b) for the political subdivision for that year.

(d) A political subdivision may not borrow money to compensate the political subdivision or any other political subdivision for the reduction of property tax collections referred to in subsection (b).

As added by P.L.162-2006, SEC.13. Amended by P.L.172-2011, SEC.41.

IC 6-1.1-20.6-9.8

Allocation of taxes exempted from credit

Sec. 9.8. (a) This section applies to property taxes first due and payable after December 31, 2009.

(b) As used in this section:

(1) "exempt taxes" refers to property taxes that are exempted from the application of a credit granted under section 7 or 7.5 of this chapter by section 7(b), 7(c), 7.5(b), or 7.5(c) of this chapter or another law; and

(2) "nonexempt taxes" refers to property taxes that are not exempt taxes.

(c) The total amount collected from exempt taxes shall be allocated to the fund for which the exempt taxes were imposed as if no credit were granted under section 7 or 7.5 of this chapter. The total amount of the loss in revenue resulting from the granting of credits under section 7 or 7.5 of this chapter must reduce only the amount of nonexempt property taxes distributed to a fund in proportion to the nonexempt rate tax imposed for that fund relative to the total of all nonexempt tax rates imposed by the taxing unit.

As added by P.L.172-2011, SEC.42.

IC 6-1.1-20.6-10

Payment of debt service obligations

Sec. 10. (a) As used in this section, "debt service obligations of a political subdivision" refers to:

- (1) the principal and interest payable during a calendar year on bonds; and
- (2) lease rental payments payable during a calendar year on leases;

of a political subdivision payable from ad valorem property taxes.

(b) Political subdivisions are required by law to fully fund the payment of their debt obligations in an amount sufficient to pay any debt service or lease rentals on outstanding obligations, regardless of any reduction in property tax collections due to the application of tax credits granted under this chapter. If the amount deposited in a fund from which debt service obligations of the political subdivision are paid is reduced as a result of the application of a credit granted under this chapter below the amount needed to meet the debt service obligations of a political subdivision as the obligations come due, the political subdivision may transfer funds from one (1) or more of the other funds of the political subdivision.

(c) Upon the failure of a political subdivision to pay any of the political subdivision's debt service obligations during a calendar year when due, the treasurer of state, upon being notified of the failure by a claimant, shall pay the unpaid debt service obligations that are due from money in the possession of the state that would otherwise be available for distribution to the political subdivision under any other law, deducting the payment from the amount distributed. A deduction under this subsection must be made:

- (1) first from distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, or county economic development income tax distributions under IC 6-3.5-7 that would otherwise be distributed to the county under the schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16, IC 6-3.5-6-17.3, IC 6-3.5-7-17, and IC 6-3.5-7-17.3; and
- (2) second from any other undistributed funds of the political subdivision in the possession of the state.

(d) This section shall be interpreted liberally so that the state shall to the extent legally valid ensure that the debt service obligations of each political subdivision are paid when due. However, this section does not create a debt of the state.

As added by P.L.146-2008, SEC.226. Amended by P.L.172-2011, SEC.43.

IC 6-1.1-20.6-11

Certification of credits granted

Sec. 11. The county auditor of each county shall certify to the department of local government finance:

- (1) the total amount of credits that are allowed under this chapter in the county for the calendar year; and

(2) the amount that each taxing unit's distribution of property taxes will be reduced under section 9.5 of this chapter as a result of the granting of the credits.

If the amount of credits granted changes after the date the certification is made, the county auditor shall submit an amended certification to the department of local government finance. The initial certification and the amended certifications shall be submitted to the department of local government finance on the schedule prescribed by the department of local government finance.

As added by P.L.146-2008, SEC.227.

IC 6-1.1-20.6-12

Application of credit of excise tax distribution calculations

Sec. 12. For purposes of computing and distributing after 2008 any excise taxes or local option income taxes for which the distribution is based on the amount of a taxing unit's property tax levy, the computation and distribution of the excise tax or local option income tax shall be based on the taxing unit's property tax levy as calculated before any reduction due to credits provided to taxpayers under this chapter.

As added by P.L.146-2008, SEC.228.