

IC 6-1.1-45.5

Chapter 45.5. Brownfield Tax Reduction or Waiver

IC 6-1.1-45.5-1

Definitions

Sec. 1. As used in this chapter:

- (1) "board" refers to the county property tax assessment board of appeals;
- (2) "brownfield" has the meaning set forth in IC 13-11-2-19.3;
- (3) "contaminant" has the meaning set forth in IC 13-11-2-42;
- (4) "delinquent tax liability" means:
 - (A) delinquent property taxes;
 - (B) delinquent special assessments;
 - (C) interest;
 - (D) penalties; and
 - (E) costs;

assessed against a brownfield and entered on the tax duplicate that a person seeks to have waived or reduced by filing a petition under section 2 of this chapter;

- (5) "department" refers to the department of local government finance, unless the specific reference is to the department of environmental management; and
- (6) "fiscal body" refers to the fiscal body of:
 - (A) the city if the brownfield is located in a city;
 - (B) the town if the brownfield is located in a town; or
 - (C) the county if the brownfield is not located in a city or town.

As added by P.L.208-2005, SEC.1.

IC 6-1.1-45.5-2

Form and content of petition

Sec. 2. A person that owns or desires to own a brownfield may file a petition with the county auditor seeking a reduction or waiver of the delinquent tax liability. The petition must:

- (1) be on a form:
 - (A) prescribed by the state board of accounts; and
 - (B) approved by the department;
- (2) state:
 - (A) the amount of the delinquent tax liability; and
 - (B) when the delinquent tax liability arose;
- (3) describe:
 - (A) the manner in which; and
 - (B) when;

the petitioner acquired or proposes to acquire the brownfield;

- (4) describe the conditions existing on the brownfield that have prevented the sale or the transfer of title to the county;
- (5) describe the plan of the petitioner for:
 - (A) addressing any contaminants on the brownfield; and
 - (B) the intended use of the brownfield;
- (6) include the date by which the plan referred to in subdivision

- (5) will be completed;
- (7) include a statement from the department of environmental management that the property is a brownfield;
- (8) state whether the petitioner:
 - (A) has had an ownership interest in an entity that contributed; or
 - (B) has contributed;to the contaminant or contaminants on the brownfield;
- (9) state whether any part of the delinquent tax liability can reasonably be collected from a person other than the petitioner;
- (10) state that the petitioner seeks:
 - (A) a waiver of the delinquent tax liability; or
 - (B) a reduction of the delinquent tax liability in a specified amount; and
- (11) be accompanied by a fee in an amount established by the county auditor for:
 - (A) completing a title search; and
 - (B) processing the petition.

As added by P.L.208-2005, SEC.1.

IC 6-1.1-45.5-3

County auditor action on petition; correction of defects; forwarding

Sec. 3. On receipt of a petition under section 2 of this chapter, the county auditor shall determine whether the petition is complete. If the petition is not complete, the county auditor shall return the petition to the petitioner and describe the defects in the petition. The petitioner may correct the defects and file the completed petition with the county auditor. On receipt of a complete petition, the county auditor shall forward a copy of the complete petition to:

- (1) the assessor of the township in which the brownfield is located, or the county assessor if there is no township assessor for the township;
- (2) the owner, if different from the petitioner;
- (3) all persons that have, as of the date of the filing of the petition, a substantial property interest of public record in the brownfield;
- (4) the board;
- (5) the fiscal body;
- (6) the department of environmental management; and
- (7) the department.

As added by P.L.208-2005, SEC.1. Amended by P.L.146-2008, SEC.305.

IC 6-1.1-45.5-4

County property tax assessment board of appeals hearing; notice

Sec. 4. On receipt of a complete petition as provided under sections 2 and 3 of this chapter, the board shall at its earliest opportunity conduct a public hearing on the petition. The board shall give notice of the date, time, and place fixed for the hearing:

- (1) by mail to:
 - (A) the petitioner;
 - (B) the owner, if different from the petitioner;
 - (C) all persons that have, as of the date the petition was filed, a substantial interest of public record in the brownfield; and
 - (D) the assessor of the township in which the brownfield is located, or the county assessor if there is no township assessor for the township; and
- (2) under IC 5-3-1.

As added by P.L.208-2005, SEC.1. Amended by P.L.146-2008, SEC.306.

IC 6-1.1-45.5-5

County property tax assessment board of appeals recommendation; notice; forwarding

Sec. 5. (a) Subject to section 8(g) of this chapter, the board may recommend that the department grant the petition or that the department approve a reduction of the delinquent tax liability in an amount less than the amount sought by the petitioner if the board determines that:

- (1) the brownfield was acquired or is proposed to be acquired as a result of:
 - (A) sale or abandonment in a bankruptcy proceeding;
 - (B) foreclosure or a sheriff's sale;
 - (C) receivership; or
 - (D) purchase from a political subdivision;
- (2) the plan referred to in section 2(5) of this chapter is in the best interest of the community;
- (3) the waiver or reduction of the delinquent tax liability:
 - (A) is in the public interest; and
 - (B) will facilitate development or use of the brownfield;
- (4) the petitioner:
 - (A) has not had an ownership interest in an entity that contributed; and
 - (B) has not contributed;

to the contaminant or contaminants on the brownfield;

(5) the department of environmental management has determined that the property is a brownfield;

(6) if the petitioner is the owner of the brownfield, the delinquent tax liability sought to be waived or reduced arose before the petitioner's acquisition of the brownfield; and

(7) no part of the delinquent tax liability can reasonably be collected from a person other than the owner of the brownfield.

(b) After the hearing and completion of any additional investigation of the brownfield or of the petitioner that the board considers necessary, the board shall:

- (1) give notice, by mail, to the parties listed in section 4(1) of this chapter of the board's recommendation that:
 - (A) the fiscal body deny the petition; or

- (B) the department:
 - (i) deny the petition;
 - (ii) waive the delinquent tax liability, subject to section 8(g) of this chapter; or
 - (iii) reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter; and
- (2) forward to the department and the fiscal body a copy of:
 - (A) the board's recommendation; and
 - (B) the documents submitted to or collected by the board at the public hearing or during the course of the board's investigation of the brownfield or of the petitioner.

As added by P.L.208-2005, SEC.1.

IC 6-1.1-45.5-6

Review and recommendation by fiscal body; notice; forwarding

Sec. 6. (a) The fiscal body shall at a regularly scheduled meeting:

- (1) review the petition and all other materials submitted by the board under section 5 of this chapter; and
- (2) determine whether to:
 - (A) deny the petition;
 - (B) recommend that the department waive the delinquent tax liability, subject to section 8(g) of this chapter; or
 - (C) recommend that the department reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter.

The fiscal body may recommend a reduction of the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board.

(b) The fiscal body shall:

- (1) publish notice under IC 5-3-1 of its consideration of the petition under this section; and
- (2) forward to the department written notice of its action under this section.

As added by P.L.208-2005, SEC.1.

IC 6-1.1-45.5-7

Review and action by department of local government finance

Sec. 7. (a) On receipt by the department of a recommendation by the fiscal body to waive or reduce the delinquent tax liability, the department shall:

- (1) review:
 - (A) the petition and all other materials submitted by the board; and
 - (B) the notice received from the fiscal body; and
- (2) subject to subsection (b), determine whether to:
 - (A) deny the petition;
 - (B) waive the delinquent tax liability, subject to section 8(g) of this chapter; or
 - (C) reduce the delinquent tax liability by a specified amount, subject to section 8(g) of this chapter.

The department may reduce the delinquent tax liability in an amount that differs from the amount of reduction recommended by the board or the fiscal body.

(b) The department's determination to waive or reduce the delinquent tax liability under subsection (a) is subject to the limitation in section 8(f)(2) of this chapter.

As added by P.L.208-2005, SEC.1.

IC 6-1.1-45.5-8

Notice of action of department of local government finance; additional review by department; proof of ownership; county auditor review of plan completion

Sec. 8. (a) The department shall give notice of its determination under section 7 of this chapter and the right to seek an appeal of the determination by mail to:

- (1) the petitioner;
- (2) the owner, if different from the petitioner;
- (3) all persons that have, as of the date the petition was filed under section 2 of this chapter, a substantial property interest of public record in the brownfield;
- (4) the assessor of the township in which the brownfield is located, or the county assessor if there is no township assessor for the township;
- (5) the board;
- (6) the fiscal body; and
- (7) the county auditor.

(b) A person aggrieved by a determination of the department under section 7 of this chapter may obtain an additional review by the department and a public hearing by filing a petition for review with the county auditor of the county in which the brownfield is located not more than thirty (30) days after the department gives notice of the determination under subsection (a). The county auditor shall transmit the petition to the department not more than ten (10) days after the petition is filed.

(c) On receipt by the department of a petition for review, the department shall set a date, time, and place for a hearing. At least ten (10) days before the date fixed for the hearing, the department shall give notice by mail of the date, time, and place fixed for the hearing to:

- (1) the person that filed the appeal;
- (2) the petitioner;
- (3) the owner, if different from the petitioner;
- (4) all persons that have, as of the date the petition is filed, a substantial interest of public record in the brownfield;
- (5) the assessor of the township in which the brownfield is located, or the county assessor if there is no township assessor for the township;
- (6) the board;
- (7) the fiscal body; and
- (8) the county auditor.

(d) After the hearing, the department shall give the parties listed in subsection (c) notice by mail of the final determination of the department. The department's final determination under this subsection is subject to the limitations in subsections (f)(2) and (g).

(e) The petitioner under section 2 of this chapter shall provide to the county auditor reasonable proof of ownership of the brownfield:

(1) if a petition is not filed under subsection (b), at least thirty (30) days but not more than one hundred twenty (120) days after notice is given under subsection (a); or

(2) after notice is given under subsection (d) but not more than ninety (90) days after notice is given under subsection (d).

(f) The county auditor:

(1) shall, subject to subsection (g), reduce or remove the delinquent tax liability on the tax duplicate in the amount stated in:

(A) if a petition is not filed under subsection (b), the determination of the department under section 7 of this chapter; or

(B) the final determination of the department under this section;

not more than thirty (30) days after receipt of the proof of ownership required in subsection (e); and

(2) may not reduce or remove any delinquent tax liability on the tax duplicate if the petitioner under section 2 of this chapter fails to provide proof of ownership as required in subsection (e).

(g) A reduction or removal of delinquent tax liability under subsection (f) applies until the county auditor makes a determination under this subsection. After the date referred to in section 2(6) of this chapter, the county auditor shall determine if the petitioner successfully completed the plan described in section 2(5) of this chapter by that date. If the county auditor determines that the petitioner completed the plan by that date, the reduction or removal of delinquent tax liability under subsection (f) becomes permanent. If the county auditor determines that the petitioner did not complete the plan by that date, the county auditor shall restore to the tax duplicate the delinquent taxes reduced or removed under subsection (f), along with interest in the amount that would have applied if the delinquent taxes had not been reduced or removed.

As added by P.L.208-2005, SEC.1. Amended by P.L.146-2008, SEC.307.

IC 6-1.1-45.5-9

Appeal of action of department of local government finance

Sec. 9. As provided in IC 6-1.5-5-1, a petitioner under section 2 of this chapter may initiate an appeal of the department's final determination under section 8 of this chapter by filing a petition with the county assessor not more than forty-five (45) days after the department gives the petitioner notice of the final determination.

As added by P.L.208-2005, SEC.1.