

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

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SPECIAL EDITION

NEW LAWS AFFECTING VARIOUS COUNTY OFFICES

The following is a digest of some of the laws passed in the 2009 Regular and Special Session of the General Assembly affecting various offices in county government. Some of the laws do not pertain directly to a particular county office, but are included in this digest for ready reference to the covered subject matter.

The digest is not intended as an expression of legal interpretations, nor is the digest intended to be all inclusive. Reference in the digest will be to the Indiana Code in the following form (Amends IC 33-17-10-5) which means (Amends Indiana Code, Title 33, Article 17, Chapter 10, Section 5). Please note the effective date of each law.

PUBLIC LAW 1 – HOUSE ENROLLED ACT 1198 – EFFECTIVE VARIOUS DATES

Technical Corrections - Makes technical corrections to various sections of the Indiana Code.

PUBLIC LAW 16 – SENATE ENROLLED ACT 346 – EFFECTIVE JULY 1, 2009

Noncode Statutes - Codifies several noncode sections and repeals corresponding noncode, including repeal of noncode section 31 of PL. 225-2005 and add of IC 6-1.1-5.5-13 that requires a person filing a sales disclosure form with respect to a sale of real property after December 31, 2003 and before January 1, 2012 to pay a fee of \$10 to the county auditor. Adds IC 36-2-8.5 to provide a rule applicable to each county office whose term of office deviates from a uniform date as of June 30, 2005. The public law also states that the expiration or repeal of a statute has the same effect.

PUBLIC LAW 18 – SENATE ENROLLED ACT 545 – EFFECTIVE JULY 1, 2009

Fishing and Hunting Licenses - Amends IC 14-22-6-13, IC4-22-11-8, IC 14-22-11-18, IC 14-22-12-1, and IC 14-22-13-6. Allows persons under 18 years of age to fish without a fishing license. Permits persons under 18 to hunt on free hunting days for young hunters.

PUBLIC LAW 26 – HOUSE ENROLLED ACT 1432 – EFFECTIVE APRIL 20, 2009

Income Tax Distributions - Adds IC 6-3.5-1.1-11.5, IC 6-3.5-6.18.6, and IC 6-3.5-7-16.5. Requires the county auditor to make distributions of CEDIT, CAGIT, and COIT revenues in a timely manner. Distribution is timely if not later than 10 working days after the date the county treasurer receives the county's certified distribution.

PUBLIC LAW 33 – SENATE ENROLLED ACT 533 – EFFECTIVE July 1, 2009

Income Indiana Occupational Safety and Health Act (IOSHA) - Amends and adds to IC 22-8-1.1. Makes changes to the laws dealing with penalties for IOSHA violations.

PUBLIC LAW 73 – HOUSE ENROLLED ACT 1077 – EFFECTIVE MAY 6, 2009

Common Law Lien - Amends IC 32-28-13-4 to allow a common law lien to become void if the lienholder does not commence a suit within 180 after the lien is recorded.

PUBLIC LAW 80 – HOUSE ENROLLED ACT 1182 – EFFECTIVE JULY 1, 2009

Health Care Costs of Sheriff's Detainees - Adds IC 11-12-5-5.5 and IC 36-2-13-18. Provides guidelines for payment amounts for healthcare services of a person who is subject to lawful detention by the Sheriff. Does not change a contract entered into between a health care provider and sheriff that was executed before July 1, 2009. These additions to the Indiana Code expire June 30, 2011.

PUBLIC LAW 87 – HOUSE ENROLLED ACT 1344 – EFFECTIVE VARIOUS DATES

Property Taxes - Amends and adds to several sections of IC 6-1.1. Makes several changes to the laws dealing with sales disclosure forms, standard deductions and homestead credits. Requires counties to distribute revenue from monthly installment tax collections to cities and towns at normal semiannual distributions times.

PUBLIC LAW 88 – HOUSE ENROLLED ACT 1358 – EFFECTIVE JULY 1, 2009

Restriction on Who May Purchase at a Tax Sale - Amends IC 6-1.1-24-5.3 to expand on who may not purchase real property at a tax sale to include a person who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or abandoned structure subject to an enforcement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, or IC 36-7-9.

Sheriff Sale Proceeds – Amends IC 32-30-10-14 to delete the requirement that proceeds from a sheriff sale be applied to any delinquent property taxes or any amount of redemption where a certificate of sale is outstanding. **Public Law House Enrolled Act 1001 special session reversed this back to the original requirements.**

PUBLIC LAW 89 – HOUSE ENROLLED ACT 1363 – EFFECTIVE JULY 1, 2009

Waiver of Certain Fees for Indigent - Amends IC 33-37-3-2 to allow clerk to waive an indigent person's payment of required fees or other court costs for civil action without court approval if person is represented by an attorney from a legal aid program and that attorney files a statement with the clerk.

PUBLIC LAW 90 – HOUSE ENROLLED ACT 1365 – EFFECTIVE JANUARY 1, 2007 AND 2008 (RETROACTIVE)

Tax Assessments and Flooded Land - Adds IC 6-1.1-4-11.5 and amends IC 6-1.1-17-0.5. Allows for retroactive reassessment of certain land that was flooded after March 1, 2009. Provides for refunds of property taxes under certain flooding conditions.

PUBLIC LAW 98 – HOUSE ENROLLED ACT 1610 – EFFECTIVE JULY 1, 2009

Sheriffs' Pension Plan - Adds IC 5-10.2-3-6.3 to allow a PERF participant who has not attained vested status and is inactive but is an active participant in a sheriff's retirement plan established under IC 36-8-10-12 to transfer the entire amount in the PERF annuity savings account in accordance with purchase of service credit under IC 36-8-10-12.5.

PUBLIC LAW 105 – SENATE ENROLLED ACT 492

Sheriff Sale – Effective July 1, 2009 - Amends IC 32-29-7-10 to require that immediately after a foreclosure sale the sheriff will record with the recorder a deed of conveyance for the premises. The sheriff is not required to record the deed if the mortgage involved in the foreclosure was insured by the U.S. Dept. of Housing and Urban Development.

Collection by Clerk of Mortgage Fee – Effective May 7, 2009 - Amends IC 33-37-4-4, IC 33-37-7-2, and adds IC 33-37-5-30. In addition to the civil costs fee a new fee shall be collected by the clerk for a mortgage foreclosure action filed after June 30, 2009 and before January 1, 2013. The fee is called the mortgage foreclosure counseling and education fee. The fee is \$50 and collected from a party filing an action to foreclose. The clerk distributes collections semi annually to the Auditor of State.

PUBLIC LAW 113 – HOUSE ENROLLED ACT 1498 – EFFECTIVE JULY 1, 2007 (RETROACTIVE)

PERF – Survivor Benefits - Amends IC 5-10.2-3-7.5 and IC 5-10.2-3-7.6. Allows a surviving spouse or surviving dependent of an active member of PERF to receive a benefit after the active member has acquired 10 years of creditable service. Prior law required 15 years of creditable service. Requires PERF to contact surviving spouses or surviving dependents who would have been eligible for benefits after December 31, 2006.

PUBLIC LAW 116 – HOUSE ENROLLED ACT 1578 – EFFECTIVE JULY 1, 2009

GPS Monitoring and Restraining Orders - Adds IC 5-2-9-1.2, IC 5-2-9-5.5, IC 5-2-9-6.5, and IC 34-6-2-148.5. Amends several sections of IC 5-2-9, IC 34-26-5-3, IC 34-26-5-8, IC 34-26-5-9, IC 34-26-5-17 and IC 35-44-3-5. Allows courts to require persons subject to protective orders to wear GPS tracking devices. Requires the Division of State Court Administration to maintain a registry of protective orders.

PUBLIC LAW 135 – SENATE ENROLLED ACT 501 – EFFECTIVE JULY 1, 2009

UCC - Amends several sections under IC 26-1 and defines order of rights in a secured property.

PUBLIC LAW 141 – HOUSE ENROLLED ACT 1230 – EFFECTIVE JULY 1, 2009

Publication of Notices - Amends IC 5-3-1-1, IC 5-3-1-2 and adds IC 5-3-1-1.5. Allows for increase in basic charge for newspaper publication rates after December 31, 2009. Publications subject to this section must be in at least 7 point type. If newspaper maintains a website, notice must appear same day on site as appears in newspaper. Newspaper may not charge a fee to post to website. State Board of Accounts has requirements and recommendations for website notices on State Board of Accounts website at www.in.gov/sboa under forms. If a newspaper refuses to post to the website when it has a website then it is sufficient for officer to post printed notices in 3 prominent places instead of publication in newspaper and website.

Amends IC 6-1.1-15-11, IC 36-2-6-3 and IC 36-2-6-4.5. Claims under these codes are no longer required to be published unless it is an allowance made by courts. Court allowances must still be published. The approval process has not been changed by these amendments and may be different in different counties. When a court has jurisdiction it is empowered to allow claims or vouchers without the allowance of the county commissioners. These claims must still be advertised. Further explanation and examples of court jurisdiction may be found in the Accounting and Uniform Compliance Guidelines for County Auditors, Chapter 7 page 4.

PUBLIC LAW 142 – HOUSE ENROLLED ACT 1285 – EFFECTIVE JULY 1, 2009

Fund for Slot Machine Wagering Fee Revenue – Adds IC 36-1-8-9.2 and states that:

(a) Each unit that receives:

(1) tax revenue under IC 4-35-8.5; or

(2) revenue under an agreement to share the tax revenue received under IC 4-35-8.5 by another unit; shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The fund established by subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

IC 4-35-8.5-4 that requires that such fees be deposited in the political subdivision's general fund was not amended or repealed. We will not take audit exception to the fee being deposited into either the general fund or a separate fund.

PUBLIC LAW 143 – HOUSE ENROLLED ACT 1287 – EFFECTIVE JULY 1, 2009

Various Probate and Trust Issues Including Cemetery Trust - Amends IC 29-1-7-7 notice of the estate administration. Prior to the effective date, the notice was to be served by certified mail, now first class postage is all that is required.

Adds IC 29-2-19 a new chapter on funeral planning declarations. IC 29-2-19-19 allows for the contest of the validity of such declaration in the same manner as an action to contest the validity of a will. Such action must be accompanied by a bond, cash deposit, or other surety which is held in trust.

PUBLIC LAW 171 – HOUSE ENROLLED ACT 1243 – EFFECTIVE JULY 1, 2009

Training of County Recorders and County Surveyors - Adds IC 36-2-11-2.5 and IC 36-2-12-2.5. Requires that the recorders and surveyors complete training courses developed by the Association of Indiana Counties and approved by the State Board of Accounts.

An individual elected to the office of county recorder after November 4, 2008, shall complete at least: fifteen (15) hours of training courses within one (1) year; and forty (40) hours of training courses within three (3) years; after beginning the county recorder's term.

An individual elected to the office of county surveyor after June 30, 2009, shall, within two (2) years after beginning the county surveyor's term, complete at least twenty-four (24) hours of training courses related to land surveying that are developed by the Association of Indiana Counties and approved by the state board of accounts. An individual shall fulfill the training requirement for each term the individual serves.

PUBLIC LAW 176 – HOUSE ENROLLED ACT 1514 – EFFECTIVE JULY 1, 2009

Official Bonds - Amends IC 5-4-1-18. Requires surety bonds required under IC 5-4-1-18 to be annual bonds. Increases the minimum amount of annual coverage from \$15,000 to \$30,000 for each \$1,000,000 in receipts for all county treasurers, county sheriffs, and circuit court clerks. The maximum amount required remains at \$300,000 unless a greater amount is approved by the fiscal body. County auditors minimum coverage increases from \$15,000 to \$30,000. All others required to file an individual bond increases from a minimum of \$8,500 to \$15,000.

Electronic Annual Reports – Amends IC 5-11-1-4. Requires counties to file their annual reports electronically in a manner prescribed by the state examiner that is compatible with the technology employed by the county. The due date changed from 30 days to 60 days after fiscal year end.

State Board of Accounts Reports – Amends IC 5-11-5-1 and IC 5-11-6-1. Allows the State Examiner to provide a preliminary report of misappropriated or diverted public funds to the Attorney General. Permits the Attorney General to institute and prosecute civil proceedings against a delinquent officer or employee or proceed against the officer's or employee's official bond.

Vanderburgh County Hotel Tax and Food and Beverage Tax – Amends IC 6-9-2.5-7.5. Amends and adds to IC 6-9-20. Makes several changes to the laws governing the use of such taxes to finance a new arena.

Allen County Fort Wayne Capital Improvement Board – Amends IC 6-9-33 and IC 36-10-8-6. Changes the name of the improvement board. Makes several changes to the permitted uses of food and beverage tax revenues.

Monroe County Food and Beverage Tax – Adds IC 6-9-41. Allows Monroe County to impose a food and beverage tax after May 13, 2009.

Publics Works Law – Adds IC 36-1-12-4.9. Allows public works projects that involve routine operation, routine repair, routine maintenance of existing structures, buildings or real property to be awarded using the provisions of IC 5-22 if the cost of the public work project is estimated to be less than \$150,000.

Public Law 182 - HOUSE ENROLLED ACT 1001 (SS)

Transfer Certain Funds From Excess Levy to Rainy Day – Effective July 1, 2009 – Section 476 – Applies to a county that had an amount transferred to the county's levy excess fund from the county's family and children's fund or children's psychiatric residential treatment services fund under Public Law 146-2008. The county fiscal body may adopt a resolution to transfer the net amount remaining in the excess levy fund from these two funds into the rainy day fund. This expires December 31, 2009.

Mobile/Manufactured Home Tax Liability Waiver – Effective January 1, 2009 (Retroactive) – Adds IC 6-1.1-7-15 that allows for the waiver of personal property tax liability for certain mobile and manufactured homes. Among the requirements for a waiver is that the home's tax liability has been imposed in an amount that exceeds the estimated resale value and the home has been abandoned in a licensed mobile home community. The holder of the title of the home may submit a written request to the county assessor for the tax liability to be waived. If the county assessor determines that the property meets requirements under statute for waiver the assessor sends a letter of waiver to the applicant and a copy to the county auditor and county treasurer. A certificate of error to the auditor should accompany the copy of the waiver letter. When the auditor receives these items the auditor removes from the tax duplicate the property taxes, special assessments, interest penalties, and costs.

Procedures for Issuance of Bonds and Other Evidences of Indebtedness by Political Subdivisions – Effective Various Times – Amends and adds various sections under IC 6-1.1-20. Requires that the fiscal body of the political subdivision requesting the special election to pay the costs of holding the special election.

Court Costs – Effective July 1, 2009 - Amends IC 33-37-4-1, IC 33-37-4-2, IC 33-37-5-21, and IC 33-37-7-2. The amendments make changes to the distribution of fees and costs collected on pretrial diversion and deferral program cases. The automated record keeping fee collected for pretrial diversion and deferral program cases effective July 1, 2009 must be kept separate from the automated record keeping fees collected on other case types. Therefore, we will now refer to the automated record keeping fee as 2 separate fees. This \$7 fee on pretrial diversion and deferral cases will be referred to as the automated record keeping – deferral/diversion fee. All other case types will have the same automated record keeping fee of \$7 as in the past.

The reason for the separation is that the automated record keeping – deferral/diversion fee must be deposited separately into the Homeowner Protection Unit Account semi-annually at the Auditor of State's Office. The automated record keeping fee on other case types will continue to be deposited into the State User Fee Fund semi-annually at the Auditor of State's Office.