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STATE EXAMINER DIRECTIVE 2026-01

Date: June 19, 2023
Subject: HEA 1001 (2026); IC 36-7-2.3
Accounting for Building and Construction Related Fees
Authority: IC 5-11-1-2, IC 5-11-1-21, IC 5-11-1-27(e)
Application: Cities, Towns, and Counties
Issued By: Paul D. Joyce, CPA, State Examiner

This State Examiner Directive instructs how cities, towns, and counties must account for and record "Building and Construction Related Fees" permitted under Indiana Code 36-7-2.3 **after December 31, 2026.**

House Enrolled Act 1001 (2026) added several new provisions to the Indiana Code, including IC 36-7-2.3, entitled "Limits on Building and Construction Related Fees." The relevant provisions discussed in this State Examiner Directive have a statutory application date "[a]fter December 31, 2026." See IC 36-7-2.3-3.

IC 36-7-2.3 applies to:

... a fee imposed by a unit for approval of an application related to:

(1) construction or reconstruction of:

- (A) residential buildings;
- (B) commercial buildings;
- (C) industrial buildings;
- (D) any other building or building space; or
- (E) an appurtenance to a building described in clauses (A) through (D); or

(2) zoning, development, subdivision, classification, or reclassification of land;

including a fee designated as a permit fee (including a fee for a permit under IC 36-7-4-1109(f)), application fee, inspection fee, processing fee, or by another name.

IC 36-7-2.3-1.

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This new legislation provides the express prohibition that any fee assessed or collected by a unit after December 31, 2026, must **"not at any time revert to the general fund or any other fund of the unit."** IC 36-7-2.3-3(3).

Further, any fee assessed and collected after December 31, 2026, **"must be maintained in a special fund dedicated solely to reimbursing the costs actually incurred by the unit relating to the imposition and amount of the fee."** IC 36-7-2.3-3(3).

As a result, after December 31, 2026, the State Examiner directs all cities, towns, and counties who impose and collect fees subject to IC 36-7-2.3 to deposit and account for those fees in a fund that has been created by the Indiana State Board of Accounts (SBOA) with the following numbers and names:

Counties #1240 - Building and Construction Related Fees Fund

Cities and Towns #2256 - Building and Construction Related Fees Fund

Each unit's Building and Construction Related Fees Fund must separately account for the receipts and expenditures related to each type of fee imposed and collected by the unit (i.e., application, processing, inspection, etc.), and all fees must be deposited into the Building and Construction Related Fees Fund.


During an audit or examination, the SBOA must be able to identify that every fee subject to IC 36-7-2.3 was properly deposited and accounted for in the Building and Construction Related Fees Fund and that no public funds, once deposited, were transferred or reverted to the general fund or any other fund of the unit. Further, the SBOA must be able to determine the amount of fees each unit imposed and deposited for each type of fee (i.e., residential, industrial, commercial, etc.). Each unit must properly account for the same within the new Building and Construction Related Fees Fund.

The State Examiner also directs all units to maintain a subsidiary ledger which details:

1. All revenue received by individual fee source, and
2. All disbursements from each specific fee source.

Each unit's subsidiary ledger must be available for SBOA review during an audit or examination. Each unit's subsidiary ledger must be reconciled to the Building and Construction Related Fees Fund on a monthly basis.

Respectfully,


Paul D. Joyce, CPA
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