Deduction for Residences in Inventory

This Act enables builders to reduce property taxes for a limited time on a limited number of new single family residences, townhouses, or condominiums they build but haven’t sold or rented.

Submitted as:
Indiana
House Enrolled Act No. 1046
Status: Enacted into law in 2011.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “An Act to Create a Deduction for Residences in Inventory.”

Section 2. [Definitions.] As used in this Act:
(a) “Affiliated group” means any combination of the following:
   (1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using [fifty percent (50%) instead of eighty percent (80%)] or a relationship described in Section 267(b)(11) of the Internal Revenue Code.
   (2) [Two (2)] or more partnerships as defined in [insert citation], including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the [department of local government finance].
(b) “Residence in Inventory” means real property that is not a model residence as defined in [insert citation] and consists of any of the following that has never been occupied: a single family residence, a single family townhouse, or a single family condominium unit. The term does not include any of the land on which the residence, townhouse, or condominium unit is located or real property that is used by the owner as the owner’s regular office space. However, this subsection does not prohibit the use of a garage or other space in the real property to store or display material used to promote the real property or other similar properties or as a space for meetings with prospective buyers or lessees.
(c) “Residential builder” means a person who builds single family residences, single family townhouses, or single family condominium units, for sale in the ordinary course of the person’s trade or business.

Section 3. [Applicability.] This Act applies to a residence in inventory that is first assessed as a partially completed structure or a fully completed structure as of [insert date] or thereafter.

Section 4. [Deductions for Residences in Inventory.] (a) A residential builder who is the owner of a residence in inventory is entitled to a deduction from the assessed value of the residence in inventory in the amount of [fifty percent (50%)] of the assessed value of the residence in inventory for the following:
   (1) Not more than [one (1)] assessment date for which the residence in inventory is assessed as a partially completed structure.
(2) The assessment date for which the residence in inventory is first assessed as a fully completed structure.

(3) The [two (2)] assessment dates that immediately succeed the assessment date referred to in subdivision (2).

(b) A [residential builder] is entitled to a deduction under this Act for not more than [three (3)] residences in inventory in this state.

(c) A [residential builder] may not receive a deduction under this Act with respect to a residence in inventory located in an [allocation area] as defined in [insert citation].

(d) A [residential builder] whose residence in inventory qualifies for a deduction under this Act and for a deduction under another state law can not receive a deduction under both statutes for that residence in inventory for the same year.

(e) A deduction for a residence in inventory under this Act does not apply for a particular assessment date if the residence in inventory is leased for any purpose for any part of the calendar year in which the assessment date occurs.

(f) If ownership of the residence in inventory changes to an owner who is also a residential builder, that new owner may claim the residence in inventory deduction under this Act, but the deduction may not be applied for an assessment date other than the assessment dates to which the deduction could have applied if ownership had not changed.

(g) A [residential builder] who owns a residence in inventory and claims a deduction under this Act shall provide to the county auditor a notice that informs the auditor of a transfer of the ownership of the residence in inventory and indicates whether the new owner is eligible to receive a deduction under this Act. The notice required by this subsection must be submitted to the county auditor at the same time that a sales disclosure form is filed under [insert citation].

(h) A deduction allowed for a residence in inventory under this Act for a particular assessment date is terminated if title to the residence in inventory is transferred after the assessment date of that year but before [January 1 of the following year] and to a person for whom the real property does not qualify as a residence in inventory. The county auditor shall immediately mail notice of the termination to the former owner, the new owner, and the township assessor (or the county assessor if there is no township assessor for the township). The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction.

Section 5. [Qualifying Statement.]

(a) A [residential builder] who seeks a deduction under this Act must file a statement containing the information required by subsection (b) with the county auditor to claim the deduction for each assessment date for which the residential builder wishes to receive the deduction. The township assessor, or the county assessor if there is no township assessor for the township, shall verify each statement filed under this section, and the county auditor shall make the deductions and notify the county property tax assessment board of appeals of all deductions approved; under this section.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury and must contain the following information:

(1) The assessed value of the real property for which the [residential builder] is claiming the deduction.

(2) The full name and complete business address of the [residential builder] claiming the deduction.

(3) The complete address and a brief description of the real property for which the [residential builder] is claiming the deduction.
(4) The name of any other county in which the [residential builder] has applied for a deduction under this Act for that assessment date.

(5) The complete address and a brief description of any other real property for which the [residential builder] has applied for a deduction under this Act for that assessment date.

(6) An affirmation by the [residential builder] that the [residential builder] is receiving not more than [three (3)] deductions under this Act, including any deduction being applied for by the [residential builder] under this Act, either as a [residential builder] of a residence in inventory or as an owner that is part of an affiliated group.

(7) An affirmation that the real property has not been leased and will not be leased for any purpose during the term of the deduction.

(c) The auditor of a county (referred to in this section as the “first county”) with whom a statement is filed shall immediately prepare and transmit a copy of the statement to the auditor of any other county (referred to in this section as the “second county”) if the [residential builder] who claims the deduction owns or is buying a residence in inventory located in the second county.

(d) The county auditor of the second county shall note on the copy of the statement whether the [residential builder] has claimed a deduction for the current year under this Act for a residence in inventory located in the second county. The county auditor shall then return the copy of the statement to the auditor of the first county.


Section 7. [Severability.] [Insert severability clause.]

Section 8. [Repealer.] [Insert repealer clause.]

Section 9. [Effective Date.] [Insert effective date.]