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Lawmaker proposes reforms in how big-box stores are assessed

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January 20, 2016

Indiana lawmakers are making another attempt to settle a dispute between county assessors and retail stores over how to determine the value of newer big-box stores for taxation.

A Senate bill that aims to curtail the so-called “dark store” method of property valuation cleared its first legislative hurdle Tuesday. Dark store valuations use closed or sold stores as comparisons in determining the value of newer stores, a change assessors say has lowered those properties’ assessed values by 45 percent on average.

Lawmakers in the Senate Tax and Fiscal Policy Committee voted 9-3 to approve the bill, which eventually will be heard by the full Senate.

The bill would establish a market segmentation methodology, which Sen. Brandt Hershman, R-Buck Creek, says would subdivide property types into specific market classes.

“You’re not doing apples and oranges comparisons [that way],” Hershman said. “If you turn your closed Kmart into a fireworks store, you’re not going to value the other nearby Kmarts as compared to their value to a fireworks store.”

The market segmentation method narrows the list of comparable properties by looking at only those that are “similarly situated in the marketplace of real estate transactions,” according to the Association of Indiana Counties.

Besides looking at property type, appraisers would also take into account things like occupancy, customer base, construction quality, and whether there are equally desirable properties in the area, the group said.

The bill also allows the Indiana Board of Tax Review, which has previously ruled in favor of retail stores, to have an independent appraiser assess the property to get a more neutral point of view of its value during disputes.

Lawmakers are hoping to avoid a financial hit to local government units due to lower property tax bills. One study found the impact of dark sales could reduce tax receipts by roughly \$120 million annually.

Allen County Assessor Stacey O'Day said she was in favor of the new approach.

"We're still receiving appeals," O'Day said. "The problem has not been fixed, and we're hoping that market segmentation will give us better guidelines into how to assess property."

But retail stores, who have said they are being unfairly taxed, are unlikely to come on board with the plan.

Stephen Paul, an attorney with Faegre Baker Daniels, who specializes in property tax law and has represented retail stores, said he opposes the market segmentation concept.

"The problem with market segmentation is the same problem as the 'dark box theory,'" Paul said. "Both ignore the reality that our tax is a tax on real estate and, as the Tax Court has repeatedly held, the identity of the owner of the real estate is irrelevant to its value."

Hershman said he is hopeful both sides of the issue end up supporting the bill. He also authored a 2015 legislative attempt to deal with the issue, but some county assessors said it didn't go far enough.

"It represents a reasonable compromise," Hershman said. "I don't know if everybody's going to see it."