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House Bill 5552 (as enrolled)  
Sponsor: Representative Peter Pettalia  
House Committee: Tax Policy  
Senate Committee: finance

Date Completed: 10-7-14

### **CONTENT**

**The bill would amend the General Property Tax Act to exclude from the definition of "transfer of ownership" certain conveyances involving residential real property conveyed to a parent, sibling, child, adopted child, or grandparent (referred to as a "family member" below) of a transferor, the settlor of a trust, a decedent, or the spouse of a transferor, settlor, or decedent, beginning December 31, 2014. The bill also would put a sunset date of December 31, 2014, on a current provision that exempts from "transfer of ownership" a conveyance of residential real property to a person related within the first degree by blood or marriage.**

Under Michigan law, the taxable value of a parcel of property may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. At that time, the assessment is "uncapped" and the property is taxed upon its State equalized valuation, which is 50% of its true cash value. (This is commonly referred to as the "pop-up" tax.) The Act defines "transfer of ownership" for this purpose and identifies types of conveyances that do or do not constitute a transfer of ownership.

The bill would exclude the following from the definition of "transfer of ownership", beginning December 31, 2014, if the property were not used for any commercial purpose following the transfer or conveyance:

- A transfer of residential real property if the transferee were a family member of the transferor or the transferor's spouse.
- A conveyance of residential real property from a trust if the person to whom the property was conveyed were a family member of the settlor or the settlor's spouse.

Currently, "transfer of ownership" does not include a conveyance to a trust if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary of the trust is the settlor or his or her spouse, or both. Under the bill, beginning December 31, 2014, for residential real property, "transfer of ownership" also would exclude a conveyance to a trust if the settlor or the settlor's spouse, or both, conveyed the property to the trust and the sole present beneficiary of the trust were a family member of the settlor or the settlor's spouse, and the property were not used for any commercial purpose following the conveyance.

Conveyances that are considered a transfer of ownership include the following, except as provided for conveyances involving a spouse:

- A conveyance to a trust.
- A conveyance by distribution from a trust.
- A change in the sole present beneficiary or beneficiaries of a trust.
- A conveyance by distribution under a will or by intestate succession (inheritance in the absence of a valid will).

Under the bill, beginning December 31, 2014, these conveyances would not be transfers of ownership if the property were residential real property, the property were not used for any commercial purpose following the conveyance, and one of the following applied:

- The settlor of a trust or the settlor's spouse, or both, conveyed the property to the trust and the sole present beneficiary or beneficiaries were a family member or family members of the settlor or his or her spouse.
- The distributee of a conveyance from a trust was a family member of the settlor or settlor's spouse.
- A change in the sole present beneficiary or beneficiaries of a trust added or substituted a family member of the settlor or settlor's spouse.
- The distributee of a conveyance under a will or by intestate succession was a family member of the decedent or the decedent's spouse.

In each situation in which a conveyance would not be a transfer of ownership under the bill, upon request by the Department of Treasury or the assessor, the sole present beneficiary or beneficiaries or the transferee would have to furnish proof within 30 days that the requirements of the bill were met. A beneficiary or transferee who failed to comply would be subject to a \$200 fine.

Currently, beginning December 31, 2013, "transfer of ownership" does not include a transfer of residential real property if the transferee is related to the transferor by blood or affinity to the first degree and the use of the property does not change after the transfer. Under the bill, this would apply through December 31, 2014.

MCL 211.27a

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would reduce both School Aid Fund and local revenue, and increase School Aid Fund expenditures, relative to current law by an unknown amount. The actual amount of any reduction would depend upon the specific characteristics of affected property. Based on sales statistics for July, the average sale price of a home in Michigan was approximately \$140,000. If such a property exhibited a taxable value before the transfer of \$123,300 (the median home value in 2010), and 35 mills were levied on the property, the bill would reduce property taxes on the property by approximately \$300 per year. While Michigan realty associations reported sales of approximately 127,000 homes in 2013 (which would exclude sales not conducted by a real estate agent registered with a local realty association), the bill is expected to affect a small number of transfers. If the bill affected 500 transfers of property with the characteristics described in the bill, it would reduce State and local property tax revenue by approximately \$150,000 per year.

As additional homes sold, the impact of the bill would be cumulative. Assuming the \$150,000 per year of revenue reduction remained constant, the total impact would be \$150,000 in the first year the bill was effective, \$300,000 in the second year, and \$450,000 in the third year. Over time, the impact would continue to increase.

To the extent that local school operating revenue was affected by the bill, School Aid Fund expenditures would be increased in order to maintain per-pupil funding guarantees.

In addition, the bill would increase fine revenue to assessors or the Department of Treasury by an unknown and likely negligible amount. The majority of fine revenue would be received by counties in which the affected property was located.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.