

Legislative Analysis



PRINCIPAL RESIDENCE EXEMPTION FOR ACTIVE DUTY MILITARY PERSONNEL

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4119 (Substitute H-1)
Sponsor: Rep. Daniel Acciavatti
Committee: Tax Policy

First Analysis (5-2-06)

BRIEF SUMMARY: The bill would allow members of the military called into active duty to continue to receive the principal residence exemption if they rent their home out to others while serving.

FISCAL IMPACT: The bill would have no direct impact on state revenue, although it would indirectly affect the School Aid Fund (SAF). If local units of government collect less revenue through the 18-mill school operating levy through the changes made by the bill, less revenue will be collected at the local level for K-12 education. This, the, would have to be offset by the School Aid Fund. To that extent that there is a fiscal impact, it would likely be very small.

THE APPARENT PROBLEM:

The General Property Tax Act exempts owner-occupied principal residences from the 18-mills levied for local school operating purposes. Generally, the tax benefit is reduced in instances where all or a portion of the property is rented to others. If a house is partitioned into multiple units, the owner-occupant is still eligible for the exemption, although typically it is prorated based on the total square footage used as a principal residence. Additionally, when a portion of a single family dwelling is rented out, the home owner may receive all of the exemption if less than 50 percent of the total square footage is rented. (This would be in instances where, for example, a room is rented to a boarder.)

Reportedly, some Michigan soldiers have found it necessary to rent their home to others while they are called into active military duty. Many are serving overseas for well over a year, and are unable to maintain the physical condition of the property or meet the necessary financial requirements for maintaining the home. Because the home is rented, the soldier loses the principal residence exemption, which subjects the property to higher taxes.

THE CONTENT OF THE BILL:

House Bill 4119 would amend the General Property Tax Act (MCL 211.7dd) to specify in the definition of "principal residence" that property qualified as a principal residence would continue to be considered as such in instances where all or a portion of the dwelling or unit constituting the principal residence is rented or leased to another person

as a residence, during the time the property owner is absent from the residence because he or she is on active military duty.

ARGUMENTS:

For:

The bill is a reasonable extension of current law. Generally, an individual's principal residence is the permanent home to which, whenever absent, he or she intends to return. This distinguishes it from, for example, a vacation home located on one of the state's 11,000 inland lakes or located in another state. When a person is in active military duty overseas, they intend to ultimately return to their home when their tour of duty is complete. However due to an extraordinary set of circumstances not entirely under their own control, the homeowner will remain absent from their home for an extended period of time, which may ultimately force them to forego the tax exemption.

Typically, when a reservist is serving in active duty his or her military pay does not make up for any lost civilian pay. Additionally, when one spouse is called into active duty, the family may actually find itself facing increased costs, such as costs for child care services that were not otherwise necessary when both parents were at home. As a result, the family may find it difficult to continue to pay the mortgage and other costs necessary to maintain the home. To offset the family's diminished earning capacity, some families may choose to rent out all or a portion of the home, which has the affect of reducing the financial benefit gained through the exemption.

If a portion of a home can be used as a separate apartment, the amount of the exemption is prorated, based on square footage. If the entire house is rented out to others, the homeowner loses the tax exemption altogether, which increases the taxes on the property and increases the amount in rent the tenant would have to pay, potentially making the home an unattractive rental option. Further, it may not always be possible to pass all or a portion of the increased costs as part of the rental costs, placing an additional financial burden on the owner.

In addition, the property owner may be subject to a higher tax bill when he or she returns home. The principal residence exemption is rescinded if the property owner no longer owns or occupies the property as a principal residence. (In the case of a homeowner who rents the entire house out, that homeowner no longer occupies the property.) To rescind an exemption, the person must file a form with the local assessor rescinding the exemption within 90 days after he or she no longer qualifies for the exemption. The exemption will remain in place through December 31 of that year. To claim (or reclaim in this instance) the exemption, the homeowner must file an affidavit with the local assessor by May 1. If the owner occupies the home after May 1 the owner cannot file an affidavit for that year, but may file the affidavit by May 1 of the following year. Typically, this doesn't subject the property to higher taxes, because if the owner moves into an existing home, the affidavit would have been filed by the previous owners. And though they would have rescinded the exemption, the exemption remains in effect through the end of the year. However, in instances where the property was previously

rented, there is no exemption. That being said, there may be situations where, for example, a homeowner leaves for active duty in June 2006, rents the house for the next year, and returns to the house in July 2007. The homeowner would then be subject to higher summer and winter property taxes.

POSITIONS:

The Department of Treasury supports the concept of the bill.

The Michigan Association of Home Builders supports the bill. (4-26-06)

The Michigan Assessors Association supports the bill. (4-26-06)

Legislative Analyst: Mark Wolf
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.