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Senate Bill 1491 (as enacted)
Sponsor: Senator Mark C. Jansen
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 585 of 2008

Date Completed: 3-26-09

CONTENT

The bill amended the General Property Tax Act to do the following:

- **Extend a property tax exemption to housing owned by a limited dividend housing corporation.**
- **Establish procedures for claiming the exemption.**
- **Revise procedures for payments in lieu of taxes on exempt property.**
- **Provide that property used or occupied solely by elderly or disabled families that is eligible for exemption is not subject to forfeiture or foreclosure for unpaid taxes while the property is exempt.**

and own a housing facility or project previously qualified, built, or financed under one of the following Federal laws:

- Section 202 of Title II of the Housing Act of 1959, 12 USC 1701q.
- Section 236 of Title II of the National Housing Act, Chapter 847, 12 USC 1715z-1.
- Section 811 of Subtitle B of Title VIII of the Cranston-Gonzalez National Affordable Housing Act, 42 USC 8013.

The bill took effect on January 20, 2009.

Exemption for Limited Dividend Housing Corporation

Under Section 7d of the Act, housing owned and operated by a nonprofit corporation or association or by this State, a political subdivision of this State, or an instrumentality of this State, for occupancy or use solely by elderly or disabled families is exempt from the collection of the general property tax. Under the bill, this provision also applies to housing owned and operated by a limited dividend housing corporation.

The bill defines "limited dividend housing corporation" as a corporation incorporated or qualified under the laws of this State and Chapter 6 of the State Housing Development Authority Act or a limited dividend housing association organized and qualified under Chapter 7 of that Act that will rehabilitate

(Under Chapters 6 and 7 of the State Housing Development Authority Act, in addition to meeting other criteria, limited dividend housing corporations and associations must be organized exclusively to provide housing facilities for people of low and moderate income, or whose income does not exceed limits established in the Act, and for social, recreational, commercial, and communal facilities as necessary to serve and improve a residential area in which Authority-aided or federally aided housing is located or is planned to be located, thereby enhancing the viability of that housing.

Under the Housing Act of 1959, private nonprofit organizations and consumer cooperatives may receive assistance to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure, to be used as supportive housing for the elderly. Under the National Housing Act, the Federal government may make periodic interest reduction payments to a mortgage on the

behalf of the owner of a rental housing project designed for occupancy by lower income families. Under the Cranston-Gonzalez National Affordable Housing Act, private, nonprofit organizations may receive assistance in the form of capital advances and contracts for project rental assistance to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing to be used as supportive housing for people with disabilities. Under the Act and the Housing Act of 1959, assistance may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses.)

Section 7d of the General Property Tax Act defines "housing" as new or rehabilitated structures with eight or more residential units in one or more of the structures for occupancy and use by elderly or disabled people, including essential contiguous land and related facilities as well as all personal property of the corporation or association used in connection with the facilities. The bill refers to a limited dividend housing corporation as well as a corporation or association.

Claim of Exemption

Under the bill, an owner of property may claim the Section 7d exemption on a form prescribed by the Department of Treasury. The assessor of the local tax collecting unit in which the property is located must approve or disapprove a claim for exemption and must give the owner written notice of the approval or disapproval. An exemption will begin on December 31 of the year in which it is approved and continue until the property is no longer used for occupancy or use solely by elderly or disabled families.

If a claim for exemption is approved, an owner of the property must annually submit to the Department and to the assessor of the local tax collecting unit an affidavit confirming eligibility for the exemption. If an affidavit is not submitted as required, the property's exemption will be revoked for that tax year and the property must be assessed and will be subject to the collection of taxes as provided in the Act. An affidavit must be submitted by May 1 in a form prescribed by the Department.

An owner of property exempt before the bill's effective date must submit a claim for exemption and any subsequent affidavits confirming eligibility in order to continue to claim the exemption.

Foreclosure

Under the bill, property that is used for occupancy or use solely by elderly or disabled families that is eligible for exemption under Section 7d is not subject to forfeiture, foreclosure, and sale for taxes returned as delinquent under the Act for any year in which the property was exempt.

Payment in Lieu of Taxes

Previously, if a local tax collecting unit had a tax roll for collection, and the tax roll contained taxes assessed against property for which an exemption under Section 7d was claimed, the appropriate collecting officer was required to prepare a statement on a form prescribed by the Department of Management and Budget (DMB) describing that property, the names and addresses of the corporation or association entitled to the exemption, the total amount of taxes exempted, and the amount of taxes assessed against the property. The bill deleted this requirement.

Under the bill, if property for which an exemption is claimed under Section 7d would have been subject to the collection of property taxes if an exemption had not been granted, the appropriate collecting officer must prepare a statement for payment in lieu of taxes on a form prescribed by the Department of Treasury. The statement must include all of the following:

- A description of the exempt property.
- The name and address of the corporation, association, or limited dividend housing corporation that owns the exempt property.
- The base valuation of the property for determination of the payment in lieu of taxes.
- The total amount of payment in lieu of taxes.

The base valuation of property must be determined as follows:

- For property exempt under before the bill's effective date, the property's

- taxable value on the assessment roll in the 2008 tax year.
- For property not exempt under before the bill's effective date, the taxable value of the property on the assessment roll in the year in which a claim for exemption is made or, for new construction, the property's taxable value on the assessment roll in the year in which construction is completed and a certificate of occupancy, or similar document, is issued.

(The bill defines "new construction" as that term is defined in Section 34d, i.e., property not in existence on the immediately preceding tax day and not replacement construction. New construction includes the physical addition of certain equipment or furnishings.)

The total amount of payment in lieu of taxes must be calculated by multiplying the base valuation by the number of mills levied by all taxing units in the local tax collecting unit, excluding any mills that would have been levied under the Revised School Code for school operating purposes and under the State Education Tax Act.

The local tax collecting unit previously was required to forward the statement to the DMB. Upon verification of the statement, the State Treasurer was required draw his or her warrant upon the State Treasury for the total amount of tax revenue lost by the local tax collecting unit as a result of the exemption as shown by the statement. After examining the statement, the Treasurer was required to forward the warrants to the treasurer of the local tax collecting unit. The DMB Director had to estimate the amount necessary to meet the expense of administering the provisions of Section 7d in each year.

Under the bill, the local tax collecting unit must forward the statement to the Department of Treasury. Upon verification of the statement, the State Treasurer must draw his or her warrant upon the State Treasury for the amount of the payment in lieu of taxes determined by the base valuation of the property. After examining the statement, he or she must forward the warrants to the treasurer of the local tax collecting unit within 60 days after receiving the statement. The local tax collecting unit must distribute the amount received in the

same manner and in the same proportions as general ad valorem taxes collected under the Act. The State Treasurer, instead of the DMB Director, must estimate the amount necessary to meet the expense of administering the provisions of Section 7d. As previously required, the legislature must appropriate an amount sufficient to meet that expense in each year.

Statement of Intent

The bill states, "It is the intent of the legislature that this amendatory act confirm that the department of treasury has standing to appeal the assessed value, taxable value, state equalized valuation, exempt status, classification, and all other issues concerning tax liability in the Michigan tax tribunal and all courts of this state for property exempt under section 7d of the general property tax act...".

MCL 211.7d

Legislative Analyst: Craig Laurie

FISCAL IMPACT

Senate Bill 1491 will reduce School Aid Fund revenue and increase both School Aid Fund and General Fund expenditures by an unknown amount, depending on how many properties are affected by the bill and their specific characteristics. To the extent that money to make the payment in lieu of taxes is appropriated each year, the bill will have no impact on local units of government. Similarly, to the extent that overall per-pupil funding guarantees are not affected by the change in revenue to the School Aid Fund, the bill also will have no impact on local school districts. General Fund expenditures will be affected by the increase in payment in lieu of taxes liabilities, while School Aid Fund expenditures will be affected by the need to increase expenditures to maintain per-pupil funding guarantees.

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.