

Legislative Analysis



PRINCIPAL RESIDENCE EXEMPTION: QUALIFIED ERRORS BY LOCAL UNITS

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

Senate Bill 25 (Substitute S-3)

Sponsor: Sen. Dave Hildenbrand

House Committee: Tax Policy

Senate Committee: Finance

Complete to 9-17-13

A SUMMARY OF SENATE BILL 25 (S-3) AS PASSED BY THE SENATE 5-2-13

Generally speaking, the General Property Tax Act provides local Boards of Review with a three-year look back when hearing appeals concerning principal residence exemption (PREs). A principal residence is an owner-occupied residence, and typically a homeowner is only entitled to one such exemption. To claim the exemption, an owner must file an affidavit with the local tax collecting unit where the property is located. Principal residences pay the 6-mill State Education Tax but are exempt from the 18-mill local school operating levy.

Senate Bill 25 (S-3) would amend the General Property Tax Act to establish a process by which property owners could file a request with the Department of Treasury for a principal residence exemption (PRE) for property owned and occupied by the owner in any year before the three immediately preceding tax years if the PRE was not on the tax roll due to a "qualified error" on the part of the local tax collecting unit, and the property owner owned and occupied the property within the dates specified in the act by which an affidavit for a PRE must be filed.

If the department approved the request and the exemption then results in an overpayment of the tax by the property owner, the department would have to notify the treasurer of the local tax collecting unit, the county treasurer, and other affected officials. Local records would have to be corrected to account for the granting of the exemption, consistent with procedures established by the department.

Any overpayment by the property owner (including any interest paid) would have to be rebated within 30 days of receiving notice from the department granting the exemption. The rebate would be without interest. The treasurer in possession of the tax roll could deduct the rebate from the appropriate tax collecting unit's subsequent distribution of taxes and would have to bill to the appropriate tax collecting unit that unit's share of taxes rebated. A local tax collecting unit responsible for a qualified error would have to reimburse each county treasurer and other affected local official required to correct official records for the costs incurred.

If the department denied the request for an exemption, the property owner would be responsible for all costs related to processing the request, as determined by the department.

If the property owner received a PRE in any year before the three immediately preceding years, but was not entitled to the PRE due to a qualified error on the part of the local tax collecting unit, the department could deny the principal residence exemption as provided under the act. If the department denied the PRE, the property owner would be issued a corrected or supplemental tax bill, with interest accruing 60 days after the date the corrected or supplemental tax bill was issued. Again in this case, the local tax collecting unit responsible for the qualified error would have to reimburse the county treasurer and other affected local officials for the costs of complying with the bill.

FISCAL IMPACT:

The bill, as written, may change revenues or expenditures for some local units, and the state, by an unknown amount. There may also be additional administrative or legal costs to the Department of Treasury. The administrative costs and revenue changes depend entirely on the number of errors found and/or claimed, the taxable value of the residences, and the vigor of the audit process. The number of principal residence exemption errors and the taxable value of those residences is unknown, thus the monetary value or cost to the state and local units resulting from those errors is unknown. Any changes in revenue will primarily affect local units. However, loss of revenue to local school districts could be mitigated by the School Aid Fund, if funding falls below guaranteed levels.

The bill provides for the Department of Treasury to recoup its legal expenses if a taxpayer's appeal is denied, but provides no additional guidance regarding the resources Treasury should apply to investigating and correcting any errors. Therefore, as the bill is currently written it is not possible to estimate these administrative and legal costs.

Legislative Analyst: Mark Wolf

Fiscal Analyst: Adam Desrosiers

■ 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.