



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 25 (as reported without amendment)
Sponsor: Senator Dave Hildenbrand
Committee: Finance

Date Completed: 4-3-13

RATIONALE

Under the General Property Tax Act, an owner of a principal residence may file an affidavit to claim an exemption from the tax levied by a local school district for school operating purposes. If the exemption does not appear on the tax roll, the owner may file an appeal with the local board of review in the year that the exemption was claimed or the following three years. If the tax roll error pertains to an exemption omission older than three years, the Act does not provide an appeals process for the owner. It has been suggested that the Act should provide owners with a process for appeals when an error on the part of the local tax collecting unit resulted in no exemption on the tax roll, regardless of the year of the tax roll in dispute.

CONTENT

The bill would amend the General Property Tax Act to provide property owners with a process to appeal to the Department of Treasury for any year that a principal residence exemption was erroneously not included on the tax roll.

Tax Appeal Requirements

The bill would allow owners to file a tax appeal with the Department of Treasury for any tax year a principal exemption was not on the tax roll, under the conditions described below.

First, within the three years before the tax roll did not include the exemption, an owner

would have to have owned and occupied a principal residence within the time period prescribed in the Act for filing an affidavit claiming the exemption. Based on these deadlines, the owner would have to have owned and occupied the principal residence as follows:

- On or before May 1 of the tax year at issue with respect to property taxes levied before January 1, 2012.
- On or before June 1 immediately before the summer tax levy at issue with respect to summer property taxes levied after December 31, 2011.
- On or before November 1 immediately before the winter tax levy at issue with respect to winter property taxes levied after December 31, 2011.

Second, the absence of an exemption would have to be a result of an error on part of the local tax collecting unit.

(The Act defines "principal residence" as the one place where an owner has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that will continue as a principal residence until another principal residence is established.)

Tax Appeal Process

The appeal allowed by the bill would have to: 1) be in a form that the Department prescribed, and 2) include all documentation that the Department considered necessary to consider the appeal.

If the Department denied an exemption on appeal, the owner would be responsible for all appeal costs, as determined by the Department.

If the Department granted an exemption, and the exemption resulted in an overpayment in the tax years at issue, the Department would have to notify the county treasurer of that exemption. Within 30 days of the Department's granting an exemption, the county treasurer would have to pay a rebate to the owner. The rebate would have to include any interest the property owner paid, but would be without interest.

MCL 211.7cc

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

If a local tax collecting unit fails to include a principal residence exemption when a homeowner properly files an exemption affidavit, the owner should have the opportunity to fix the error outside of the three-year window provided for in the Act. This bill speaks to the idea that in cases of government error, the error should be corrected in favor of the taxpayer.

Reportedly, a resident who purchased a home and properly submitted an exemption affidavit in 2000 discovered about eight years later that an exemption was not included on the tax roll. The local tax collecting unit evidently admitted that it had erred and failed to include the exemption for the tax year 2000 and forward. The resident appealed but was unable to receive a refund for 2000 through 2004 due to the three-year appeal limitation in the Act. The amount overpaid for those years was reportedly almost \$5,000. Unless the Act is amended to allow appeals for exemption errors beyond the current three-year limit, the resident and potentially others in a similar situation will suffer for the local tax collecting unit's error.

Response: Many scenarios can lead to assessment mistakes, so the State limited the time frame for correcting them to the three years within the Act. Every homeowner receives tax bills or statements each year indicating 1) whether a principal

residence exemption applies, and 2) that the homeowner should review his or her records for accuracy. The system is designed to provide notice to a homeowner multiple times throughout the year to prevent errors, and allow taxpayers to respond within a reasonable time frame.

Opposing Argument

Under the bill, homeowners could potentially appeal principal residence exemptions decades after the local tax collecting unit made an error. There is no established procedure, nor does the bill propose one, for each layer of government involved (county, school district, and State) to make adjustments for exemptions for an indefinite period of time.

Opposing Argument

Paying property taxes can result in benefits to the homeowner. For example, itemizations on Federal tax returns can include property taxes. Also, homeowners might have received another principal residence exemption, or an equivalent exemption, in other areas, or other states, during the years in question. The unlimited time frame under the bill could make it difficult or impossible to verify whether an exemption was proper. Allowing homeowners to appeal principal residence exemption determinations for any year could result in homeowners' "double dipping" and receiving two or more benefits when they are entitled to only one.

Response: With regard to income taxes, the impact of any collateral tax benefits to paying property taxes is limited to the Federal level.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would be unlikely to affect local unit revenue or expenditure. Under current law, the owners of property that would be affected by the bill must pay local school operating mills levied on nonhomestead property (property that is not a principal residence). Under the bill, if they successfully appealed, affected taxpayers would have this money refunded by the county in which they resided. Counties would recoup the costs of the refund from the local school districts that received the revenue from the operating mills. Local school districts then would be compensated

for the loss through increased School Aid Fund expenditures, which are required in order to maintain per-pupil funding guarantees.

As a result, the bill would increase School Aid Fund expenditures by an unknown and likely minimal amount. The bill also would have an additional indeterminate effect on State revenue and/or expenditures. While the bill does not specify the parties responsible for legal costs in the event an appeal was successful, the bill does indicate that if an appeal were denied, the taxpayer would be responsible for costs of the appeal. Any impact on State revenue or expenditure from legal costs is expected to be negligible.

Fiscal Analyst: David Zin

A1314\25a

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.