



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**ESCROW ADJUSTM'T. FOR TAX CUT**

**House Bill 5046 (Substitute H-1)  
First Analysis (10-19-93)**

**Sponsor: Rep. Willis Bullard, Jr.  
Committee: Business & Finance**

***THE APPARENT PROBLEM:***

Public Act 125 of 1966 generally requires certain escrow information on a mortgage to be provided each year by a mortgagee (the lender) to the mortgagor (the borrower). Under federal law, financial institutions are required to collect through escrow payments only an amount that they reasonably expect will cover property tax obligations, and they can be fined and receive other penalties for collecting substantially more than is reasonably anticipated. In Michigan, most property taxes are levied for operating local school districts. With enactment of Public Act 145 of 1993 (Senate Bill 1), however, this may no longer be the case. This act calls for eliminating property taxes as the primary means of paying for Michigan's public elementary and secondary school system. To help prepare mortgagees and vendors of land contracts to prepare for this change in law as it will affect escrow accounts they hold on behalf of mortgagors and other borrowers on real property, legislation has been requested that would require them to reduce escrow accounts used to pay real property taxes for calendar year 1994 either by 50 percent of the amount levied in 1993 or the actual amount, if known, of the resulting property tax reduction.

***THE CONTENT OF THE BILL:***

The bill would amend Public Act 125 of 1966 to require a mortgagee, vendor of a land contract, or their agent(s), no later than March 1, 1994, to adjust the escrow account maintained for paying real property taxes that were to be levied in the 1994 calendar year by an amount the mortgagee, vendor or agent reasonably anticipated would be paid during 1994. An escrow account adjustment would be considered reasonable if it amounted to a reduction of not less than 50 percent of the total property taxes levied for 1993; also, an escrow account adjustment under the bill would take effect for the periodic payment that was due no later than April 30, 1994.

Upon receipt of a written request by a mortgagor or the vendee of a land contract, the mortgagee, vendor or their agent, within a reasonable time, would have to reduce the escrow account maintained for paying 1994 real property taxes by the actual amount of taxes levied on the property in 1993 for local school district and intermediate school district operating purposes. An adjustment for the actual amount would be required only if the mortgagor or vendee included with the written request either 1) the 1993 tax statements that stated the actual dollar amount of real property tax levied for local school operating purposes, or 2) a certified affidavit by the local taxing authority that stated the actual dollar amount of real property tax levied for local school operating purposes.

The bill could not be construed either to prohibit a mortgagee, land contract vendor or their agent(s) from adjusting an escrow account if information was or became available regarding the actual amount of real property tax levied or that was to be levied on property for local school operating purposes, or to require a mortgagee, land contract vendor or their agent(s) to adjust an escrow account for a periodic payment that was due before April 1, 1994.

MCL 565.161 and 565.163

***FISCAL IMPLICATIONS:***

The House Fiscal Agency says the bill would not affect state or local budget expenditures. (10-18-93)

***ARGUMENTS:***

***For:***

With enactment of Public Act 145 of this year (Senate Bill 1), Michigan residents who hold mortgages or are buying real property under a land contract will see a substantial decrease in the amount of property taxes levied against their properties for school operating purposes. Escrow

accounts are held on behalf of mortgagors and land contract vendees by their respective mortgagees/vendors, where a portion of each monthly payment is held in reserve to pay local property taxes when they become due. In Michigan, most local property taxes levied currently are used to pay for local school operating purposes. Under Public Act 145, however, homeowners and other real property owners will see their local property taxes reduced by perhaps up to 65 percent, as Michigan (based on different plans now circulating in the legislature) moves to adopt another system to finance its public schools. The bill would require mortgagees and land contract vendors, effective for the monthly payment due no later than April 30, 1994, to reduce amounts collected in escrow either by 50 percent of amounts levied for property taxes in 1993 or by the actual amount of the property tax decrease if this was known. Thus, the bill not only would ensure that owners of real property who have escrow accounts kept for their properties would see an immediate cut in monthly escrow payments for property taxes next spring, but also would give financial institutions the flexibility they'll need to implement Public Act 145 as it relates to the maintenance of escrow accounts.

***Response:***

The bill may be premature as it is not certain that the legislature will act in time to replace the current system of using local property taxes to pay for public schools or, if it does, what type of financing system it will adopt to replace the current system. It is possible, in fact, that local property taxes will continue to play a significant role in funding public schools.

***POSITIONS:***

The Michigan Bankers Association supports the bill.  
(10-18-93)

The Michigan League of Savings Institutions supports the bill. (10-18-93)