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# POVERTY EXEMPTION GUIDELINES

House Bill 5019 as enrolled
Public Act 390 of 1994
Second Analysis (1-11-95)

Sponsor: Rep. Willis Bullard, Jr.
House Committee: Taxation
Senate Committee: Finance

## THE APPARENT PROBLEM:

The General Property Tax Act contains a so-called poverty exemption, under which "the real and personal property of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges is exempt from taxation." This is a very old provision, used extensively by some communities and not at all in others. It is understood to give wide discretion to the local government as to whether to grant a poverty exemption. The act provides no guidelines or standards as to who is eligible to apply for an exemption. Tax specialists say that some local units have developed guidelines for their own use, but there is no requirement that they do so. A 1991 Michigan Court of Appeals decision said citizens have the right to appeal the denial of a poverty exemption. This, tax specialists say, was the first time it had been suggested that an appeal was available. (The appeal goes to the state tax tribunal.) It has been recommended that the state law require the adoption of guidelines by local units to help determine who is eligible for a poverty exemption.

## THE CONTENT OF THE BILL:

The bill would amend the General Property Tax Act to provide criteria a person would have to meet to be eligible for a poverty exemption, in whole or in part, from property taxes on his or her homestead. The term "homestead" would refer to both homestead and qualified agricultural property as those are defined in the act.

To be eligible for an exemption a person would have to:

-- Be an owner of and occupy as a homestead the property for which an exemption was being requested.

-- File a claim with the supervisor or board of review on a form provided by the local assessing unit, accompanied by federal and state income tax returns (filed in the current or immediately preceding year) of all the people residing in the homestead, including any property tax credit returns.

-- Produce a valid driver's license or other form of identification requested by the supervisor or board of review.

-- Produce a deed, land contract, or other evidence of ownership of the property if required by the supervisor or board of review.

-- Meet federal poverty income standards (as determined annually by the U.S. Office of Management and Budget) or alternative guidelines adopted by the governing body of the local assessing unit, provided the local guidelines do not establish income eligibility requirements less than the federal guidelines.

The application for an exemption would have to be filed after January 1 but before the day prior to the last day of the board of review.

The governing body of the local assessing unit would be required to determine and make available to the public the policy and guidelines it uses for the granting of exemptions. The guidelines would have to include but not be limited to the specific income and asset levels of the claimant and total household income and assets. The board of review would be required to follow the policy and guidelines of the local assessing unit in granting or denying an exemption unless the board determined there were substantial and compelling reasons why there should be a deviation from the policy and guidelines and those reasons were communicated in writing to the claimant.

MCL 211.7u

## *FISCAL IMPLICATIONS:*

The Senate Fiscal Agency reports that the bill would have an indeterminate revenue impact on local government, depending on whether the bill results in more or fewer claims for poverty exemptions. The SFA notes, "On the one hand, the bill could reduce the cost of poverty exemptions because it would restrict exemptions to only homestead property. On the other hand, the bill could result in an increase in the number of poverty exemptions granted as specific criteria for the exemption were placed into law." (12-12-94)

## *ARGUMENTS:*

### *For:*

The bill would put in place guidelines for determining who is eligible to apply for an exemption, on grounds of poverty, from paying some or all of the property taxes on a homestead. The governing body of a local unit would be required to determine what guidelines and policy they will use in granting exemptions. Language would be maintained that leaves the granting of an exemption to "the judgment of the supervisor and board of review." The board of review would have to follow the guidelines and policy of the local unit in evaluating an application for a poverty exemption unless it had substantial and compelling reasons for deviating from them. If it did so, it would have to communicate those reasons to the claimant. The bill will help to clear up the confusion over eligibility for the exemption. It also makes clear that a homestead could be exempt "in whole or in part." Poverty exemptions would also be available on qualified agricultural property (i.e., agricultural property that qualifies along with homesteads for the exemption from basic local school operating property taxes).

### *Response:*

Currently, the exemption is for "the real and personal property" of those who are considered unable to pay. The bill would allow only homesteads and farms to qualify. Is this change necessary or fair? There may be cases where other kinds of property deserve a temporary exemption, such as long-held family vacation property or vacant residential property. Further, is it fair to allow an exemption for qualified agricultural property but not for other kinds of family business property or for other kinds of "open space" property?