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## EXEMPT CERTAIN PROPERTY WHILE UNDER CONSTRUCTION

### Senate Bill 606 as passed by the Senate First Analysis (6-4-98)

**Sponsor: Sen. Leon Stille**  
**Senate Committee: Finance**  
**House Committee: Tax Policy**

#### ***THE APPARENT PROBLEM:***

A representative of a 105-bed home for the aged sponsored by 18 churches in the Muskegon area has complained that the township assessor declared the land and improvements taxable while the facility was being built and until it was completed and occupied. While some people (although not all) have said this should not have happened, others believe the law needs to be clarified to address this issue. Proponents of legislation say that it makes no sense for land and buildings that will be tax exempt once in full use to be considered taxable while under construction, and they want to eliminate the possibility it will happen in the future.

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

The bill would amend the General Property Tax Act to require that the assessment roll for each tax year be corrected to reflect that partially completed new construction and the land on which the improvements are located are exempt from the collection of taxes if they are later determined to be exempt from taxes on tax day in the year construction of the improvements was completed and the property put to use. The requirement would apply to taxes levied after December 31, 1991.

The bill would specify that for each year for which the tax roll was corrected, a corrected tax bill would be issued by the local tax collecting unit or by the county treasurer (depending on who has possession of the tax roll). If granting an exemption resulted in an overpayment of taxes, a rebate, including any interest and penalties paid, would have to be made to the taxpayer within 30 days of the date the exemption was granted. The rebate would be without interest (that is, if no interest had been paid along with taxes).

The bill specifies that its provisions would be retroactive and effective December 31, 1991.

The term "new construction" is imported from Section 34d of the act, where it is defined as property not in existence on the immediately preceding tax day and not replacement construction. The term includes the physical addition of equipment or furnishings that are not considered normal maintenance.

MCL 211.53d

#### ***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency reported on an earlier version of the bill that it would result in a \$75,000 refund of state, school, and local government property taxes and penalties. (SFA floor analysis dated 5-13-98)

#### ***ARGUMENTS:***

##### ***For:***

The bill would make it clear that property that eventually becomes exempt when in use should not be liable for taxes levied while it is under construction. It does that by providing a rebate mechanism. Once a nonprofit organization, for example, had completed construction of a facility and put it to a tax-exempt use, any taxes paid on the land and partially completed new construction beforehand would be rebated. This is consistent with the philosophy behind granting tax exemption to nonprofits in recognition of the benefit they provide to society and their lessening of the burdens of government.

##### ***Against:***

One could argue that even if the bill represents good policy from now on, the bill should not be retroactive. If, in one or more cases, an assessor made a judgment that applying the property tax law properly meant that property owned by a nonprofit but not yet in use for its intended purposes was taxable, this decision should

not be overturned by the legislature. (If it was an improper decision, it could be appealed through the usual channels.) Retroactive application will mean lost revenue for affected local units.

***Response:***

Without retroactivity the case of the aggrieved nonprofit corporation that has initiated this legislation would not be addressed.

***Against:***

There remain concerns about this bill. What about cases where property is not put to the intended uses or is sold after it is complete? It is an odd notion administratively to make the current tax status of property contingent on some future happening. Further, it is not clear that property owned by a nonprofit ought to be exempt from taxes prior to its being used consistent with the organization's purposes.

***POSITIONS:***

A representative from Christian Care -- Senior Care Community testified in support of the bill. (6-3-98)

The Department of Treasury is opposed to the bill. (6-3-98)

The Michigan Townships Association has indicated opposition to the bill. (6-3-98)

The Michigan Assessors Association has indicated its opposition to the bill. (6-3-98)

Analyst: C. Couch

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■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.