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DEFER SENIOR PROPERTY TAXES

House Bill 4042 (Substitute H-4)
First Analysis (3-4-97)

Sponsor: Rep. Kirk A. Profit
Committee: Tax Policy

THE APPARENT PROBLEM:

Legislation has been introduced with the aim of preventing senior citizens from losing their homes because of their failure to keep up with property taxes. In Washtenaw County, a program sponsored by a local housing bureau loans money to seniors in danger of losing their homes because of delinquent taxes, with the money to be paid back upon the sale of the home or the homeowner's death. Representatives of the program, which is supported by the county, the University of Michigan, and the City of Ann Arbor, have said they cannot help all who need it, and have recommended that a similar statewide program be created, whereby senior homeowners can use the equity in their homes to defer taxes. If property owners fail to pay property taxes, their property can go to a tax sale, and they can lose it, or be forced to pay premiums to private investors who pay off the taxes. Proponents of additional assistance for seniors point out that many seniors did not benefit directly from the property tax reductions that resulted from the passage of Proposal A, because senior property tax credits were reduced dollar for dollar with the reduction in property taxes. They were, of course, affected by the two cent increase in sales taxes that accompanied cuts in school property taxes. A state program currently exists whereby seniors and totally and permanently disabled homeowners can defer the payment of special assessments. A similar program has been proposed for the deferral of property taxes.

THE CONTENT OF THE BILL:

The bill would amend Public Act 225 of 1976, which allows the deferral of special assessments by low-income senior citizens and certain other homeowners, to establish a similar process for the deferral of property taxes. Taxes would be deferred until one year after the owner's death or until the homestead (or any part of the homestead) was conveyed or transferred. The Department of Treasury would have to pay the entire balance of property taxes owing, including delinquent amounts, to the local tax collecting unit.

Eligibility. The bill would use the eligibility standards for the existing special assessment program, with some changes that would apply to both programs. Under the bill, an owner of a homestead who was 65 years of age or older, or was totally and permanently disabled, or was an adult in need of protective services could apply to the Department of Treasury for deferment of the payment of property taxes levied on his or her homestead. The household income of the owner and spouse would have to be $15,600 or less. (The act sets the income limit at $10,000, to adjusted annually, beginning in 1984, based on the Detroit consumer price index. The House Fiscal Agency has estimated the eligible household income limit at $15,600 for 1998.) Also, a person would have to be a citizen of the United States, have resided in the state for five years, and have owned the homestead for three or more years. The reference to an adult in need of protective services would be added by this bill and the ownership requirement would be reduced to three years from five. These would be new criteria for special assessment deferments as well.

Equity Limit. Under the bill, special assessments and property taxes could not be deferred for a homestead if the total amount of special assessments and property taxes deferred, and all accrued interest, was greater than 75 percent of the equity in the homestead.

Interest and Penalties. The payment of property taxes deferred would include interest at a rate of one-half of one percent per month or fraction of a month. If the property had been conveyed or transferred but the deferment not terminated, there would be additional interest of one percent per month or fraction of a month.

Application Process. The owner of a homestead would have to apply to the Department of Treasury for a deferment on an affidavit form made available at convenient locations by the department. (Applications for a deferment of special assessments are made to the local assessing officer.) The affidavit would have to be filed at least 30 days before the due date of the bill for which the deferment was being requested. If the homestead was jointly owned by husband and wife, each would have to sign the affidavit. If the homestead was mortgaged or there was an unpaid balance on a land contract, the written consent of the mortgagee or land contract vendor would have to accompany the affidavit.

(Currently, the affidavit is due 30 days after the due date for special assessments; this would be changed to before the due date for special assessments as well.)

The department would have to promptly make its decision about the eligibility of the applicant for a deferment. Annually, the department would have to determine the eligibility of owners with a deferral and secure an assignment to the state of any property tax credit allowed under the Income Tax Act payable to a person with deferred property taxes, and that credit would be applied to any lien imposed on the homestead under the assessment and tax deferment act. (The department is required to record a lien in favor of the state with the county register of deeds when it transmits the revenue to the local unit.)

Revolving Fund. Public Act 225 of 1976 created a special revolving fund to pay special assessments, and $3 million from the Michigan Veterans Trust Fund was used to create the fund. Property taxes would also be paid from this fund to local units.

MCL 211.762 et al.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the amount of property taxes that could be deferred under this bill depends upon taxpayer participation. About 174,000 households qualify and if all who qualified participated, $160 million in property taxes would be deferred. The HFA points out that the actual number is probably much lower, but impossible to calculate. According to the agency, $3 million was borrowed from the Michigan Veterans Trust Fund to start the special assessment deferment program and about $1.5 million is still owed to that fund. To pay for property tax deferments, another (potentially large) sum of money would need to be borrowed or appropriated. (3-3-97)

ARGUMENTS:

For:

Senior citizens should not be forced out of their homes because they cannot pay their property taxes. This bill would provide an additional tool to prevent that from happening. It builds on a long-standing program that allows seniors below a certain income threshold to defer special assessments. Under this new proposal, seniors could apply to the state for a deferment of property taxes and the state would send local units the tax revenues out of a revolving fund. The state would be repaid upon the sale of the homestead or upon the death of the taxpayer and the settlement of the estate. It should be noted that senior citizens who qualified for the circuit breaker credit did not benefit directly from the lowering of property taxes by Proposal A, passed in 1994. Their property tax credit decreased dollar for dollar with their property taxes, while the sales tax was raised by two cents. Seniors should not have to choose between paying their property taxes or buying groceries or medicine. They ought to be able, after years of contributing to the state, to make use of the equity in their homes to defer property taxes.

Against:

Some people doubt that this problem is very extensive and think there may be superior solutions to whatever problem does exist. For example, there is other legislation pending that would expand the homestead property tax credit (or circuit breaker) for seniors; it would even eliminate property taxes for seniors with household incomes under $9,000 whose total property taxes are $1,200 or less. Another alternative would be to let local authorities or agencies address this problem, as is happening in some locales, which would be preferable to creating a new bureaucratic program at the state level. It should be noted that any solution that requires the taxpayer to file a claim or request a deferral runs the risk of missing some of the most vulnerable people. The homeowners most at risk might well be those who will not know about the programs or who will neglect to file the claims.

POSITIONS:

The Michigan Townships Association has indicated its support for the substitute. (2-26-97)

The Michigan Municipal League supports the bill. (3-3-97)

A representative of the AARP of Washtenaw County and the Grey Panthers testified in support of the bill. (2-2-6-97)

The Department of Treasury is opposed to the bill. (2-26-97)

Analyst: C. Couch

■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.